

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
October 18, 2016**

AGENDA

- | | |
|-------|--|
| 8:30 | Reception for Environmental Excellence Awards and Exceptional Design Awards, Lambert Conference Center, Rooms 9 and 10 |
| 8:30 | Reception for Domestic Violence Awareness Month, Lambert Conference Center Reception Area |
| 9:30 | Presentations |
| 10:00 | Presentation of the 2016 Barbara Varon Award |
| 10:10 | Board Appointments |
| 10:20 | Items Presented by the County Executive |

**ADMINISTRATIVE
ITEMS**

- | | |
|---|--|
| 1 | Approval of "Watch for Children" Signs as Part of the Residential Traffic Administration Program (Providence and Springfield Districts) |
| 2 | Streets into the Secondary System (Mount Vernon District) |
| 3 | Additional Time to Obtain a Non Residential Use Permit (Non-RUP) for Special Exception SE 2012-PR-012, TD Bank, N.A. (Providence District) |
| 4 | Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance Amendment Re: Articles 3, 9, 18, and 20 Regarding Farm Wineries, Limited Breweries, and Limited Distilleries |

ACTION ITEMS

- | | |
|---|--|
| 1 | Adoption of a Resolution Approving the Issuance by the Fairfax County Economic Development Authority of its Revenue Bonds for the Benefit GreenSpring Village, Inc. Refunding |
| 2 | Authorization for the County Executive to Execute the Agreement Between The United States Department of the Interior National Park Service and Fairfax County |
| 3 | Authorization for the Department of Transportation to Apply for Funding and Endorsement for the Virginia Department of Transportation's FY 2018 Transportation Alternatives Grant Program (Lee and Providence Districts) |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
October 18, 2016**

**ACTION ITEMS
(Continued)**

- | | |
|---|---|
| 4 | Authorization for the Department of Transportation to Apply for Funding and Endorsement of the Virginia Department of Transportation's FY 2018 Bicycle and Pedestrian Safety Program Grant Program (Sully District) |
| 5 | Allocation of Tysons Grid of Streets Project Funds to the Design of Lincoln Street (Providence District) |
| 6 | Approval to Terminate the Deed of Lease for Board-Owned Property at 1311 Spring Hill Road (Dranesville District) |

**INFORMATION
ITEMS**

- | | |
|---|---|
| 1 | Planning Commission Action on Application 2232-D16-28, School Board of the City of Falls Church |
|---|---|

10:30	Matters Presented by Board Members
-------	------------------------------------

11:20	Closed Session
-------	----------------

**PUBLIC
HEARINGS**

3:00	Decision Only on PCA B-715 (L&F Bock Farm, LLC) (Mount Vernon District)
------	---

3:00	Decision Only on RZ 2015-MV-015 (L&F Bock Farm, LLC) (Mount Vernon District)
------	--

3:00	Decision Only on SE 2015-MV-030 (L&F Bock Farm, LLC) (Mount Vernon District)
------	--

3:00	Decision Only on SE 2015-MV-019 (Charles County Sand & Gravel Company, Inc.) (Mount Vernon District)
------	--

3:00	Public Hearing on SE 2016-BR-004 (Marcela Munoz DBA Marcela's Day Care) (Braddock District)
------	---

3:00	Public Hearing on SE 2016-BR-013 (Rejnaj of Twinbrooke, LLC) (Braddock District)
------	--

3:00	Public Hearing on SE 2015-SU-034 (PDG Daly Drive, LLC) (Sully District)
------	---

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
October 18, 2016**

**PUBLIC
HEARINGS
(Continued)**

3:00	To be Deferred	Public Hearing on SE 2016-HM-017 (Milestone Tower Limited Partnership III) (Hunter Mill District)
3:30		Public Hearing on AR 83-D-006-04 (Cajoll Co. and the John W. Hanes III Settler Trust) (Dranesville District)
3:30		Public Hearing on AR 99-D-002-02 (Lawrence A. Krop) (Dranesville District)
3:30		Public Hearing on AR 83-S-007-04 (Mary E., Victoria Anna, Gifford Ray, and Melissa V. Hampshire) (Springfield District)
3:30		Public Hearing on PCA 2010-PR-022 (TMG Solutions Plaza Land, L.P.) (Providence District)
4:00		Public Hearing to Consider Changes to The Code of Fairfax County, Virginia, Chapter 33, Pawnbrokers and Precious Metals and Gems Dealers
4:00		Public Hearing on Proposed Plan Amendment 2013-I-MS1, Merrifield Suburban Center (Providence District)
4:00		Public Hearing to Consider Adopting an Ordinance Expanding the Culmore Residential Permit Parking District, District 9 (Mason District)
4:00		Public Hearing to Consider Adopting an Ordinance Expanding the Springdale Residential Permit Parking District, District 33 (Mason District)
4:00		Public Hearing for the Creation of Small and Local Sanitary Districts for Refuse/Recycling, and/or Vacuum Leaf Collection Service (Hunter Mill District)
4:00		Public Hearing for the De-Creation/Re-Creation of Small and Local Sanitary Districts for Refuse/Recycling, and/or Vacuum Leaf Collection Service (Mount Vernon District)
4:30		Public Hearing on a Proposal to Prohibit Through Truck Traffic on Washington Drive, Tyler Street, Payne Street, Church Street and Courtland Drive (Mason District)

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
October 18, 2016**

**PUBLIC
HEARINGS
(Continued)**

- | | |
|------|---|
| 4:30 | Public Hearing on a Proposed Zoning Ordinance Amendment
Re: Reference Citations for Nursery Schools, Child Care
Centers & Veterinary Hospitals; Special Permit Submission
Requirements; Variance Standards; and Clarification of the
Definition of Public Use |
| 4:30 | Public Hearing on the Acquisition of Certain Land Rights
Necessary for the Construction of Birch Street Sidewalk
Improvements (Dranesville District) |
| 5:00 | Public Hearing to Expand the Twinbrook Community Parking
District (Braddock District) |
| 5:00 | Public Hearing to Consider Adopting an Ordinance to Establish
the McLean Ridge Temporary Residential Permit Parking
District, District T5 (Providence District) |
| 5:00 | Public Hearing on Proposed Plan Amendment 2014-IV-MV3,
Located East of Metroview Parkway, South of Cameron Run
(Mount Vernon District) |
| 5:00 | Public Hearing on Proposed Plan Amendment 2015-IV-MV3,
Located on the East Side of Richmond Highway, North of
Fairview Drive (Mount Vernon District) |
| 5:30 | Public Hearing on Proposed Plan Amendment 2016-CW-1CP,
Countywide Policy Plan |
| 5:30 | Public Hearing to Consider Parking Restrictions on Fair Ridge
Drive (Sully District) |
| 5:30 | Public Hearing on PCA-B-846-03 (RP 11720, LLC) (Hunter Mill
District) |
| 5:30 | Public Hearing on DPA-HM-117-02 (RP 11720, LLC) (Hunter Mill
District) |
| 5:30 | Public Hearing on PRC-B-846-04 (RP 11720, LLC) (Hunter Mill
District) |
| 5:30 | Public Comment |



Fairfax County, Virginia

BOARD OF SUPERVISORS

AGENDA

**Tuesday
October 18, 2016**

9:30 a.m.

AWARDS

- 2016 Environmental Excellence Awards
- 2016 Exceptional Design Awards

PRESENTATIONS

- PROCLAMATION – To designate October 8, 2016 as White Cane Day in Fairfax County. Requested by Chairman Bulova.
- PROCLAMATION – To designate October 2016 as Dysautonomia Awareness Month in Fairfax County. Requested by Chairman Bulova.
- RESOLUTION – To recognize Ed Batten for his years of service on the Fairfax County Park Authority Board. Requested by Supervisor McKay.
- RESOLUTION – To recognize David West for his years of service on the Fairfax County Health Care Advisory Board. Requested by Supervisor McKay.
- RESOLUTION – To congratulate the Northern Virginia Technology Council for its 25th anniversary. Requested by Supervisor Herry.
- PROCLAMATION – To designate October 2016 as Domestic Violence Awareness Month in Fairfax County. Requested by Supervisor Cook.

— more —

Board Agenda Item
October 18, 2016

- PROCLAMATION – To designate October 2016 as Breast Cancer Awareness Month in Fairfax County. Requested by Supervisor Cook.
- PROCLAMATION – To designate October 2016 as Cyber Security Month in Fairfax County. Requested by Supervisor Gross.

STAFF:

Tony Castrilli, Director, Office of Public Affairs
Bill Miller, Office of Public Affairs

Board Agenda Item
October 18, 2016

10:00 a.m.

Presentation of the 2016 Barbara Varon Award

ENCLOSED DOCUMENTS:

None.

PRESENTED BY:

The Honorable Emilie Miller, Barbara Varon Volunteer Award Selection Committee

Board Agenda Item
October 18, 2016

10:10 a.m.

Board Appointments to Citizen Boards, Authorities, Commissions, and Advisory Groups

ENCLOSED DOCUMENTS:

Attachment 1: Appointments to be heard October 18, 2016
(An updated list will be distributed at the Board meeting.)

STAFF:

Catherine A. Chianese, Assistant County Executive and Clerk to the Board of Supervisors

October 18, 2016

NOTE: A revised list will be distributed immediately prior to the Board meeting.

APPOINTMENTS TO BE HEARD OCTOBER 18, 2016
(ENCOMPASSING VACANCIES PROJECTED THROUGH OCTOBER 31, 2016)
(Unless otherwise noted, members are eligible for reappointment)

ADVISORY SOCIAL SERVICES BOARD
(4 years – limited to 2 full consecutive terms)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Heather Scott; appointed 4/16 by Cook) Term exp. 9/17 <i>Resigned</i>	Braddock District Representative		Cook	Braddock
VACANT (Formerly held by Margaret Osborne; appointed 12/14 by McKay) Term exp. 9/16 <i>Resigned</i>	Lee District Representative		McKay	Lee
Virginia L. Peters (Appointed 10/14 by Hyland) Term exp. 9/16	Mount Vernon District Representative		Storck	Mount Vernon

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)
--

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Arthur R. Genuario; appointed 4/96-5/12 by Hyland) Term exp. 9/13 <i>Resigned</i>	Builder (Single Family) Representative		By Any Supervisor	At-Large
Mark Drake (Appointed 2/09-5/12 by McKay) Term exp. 5/16	Engineer/Architect/ Planner #2 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by James Francis Carey; appointed 2/95-5/02 by Hanley; 5/06 by Connolly) Term exp. 5/10 <i>Resigned</i>	Lending Institution Representative		By Any Supervisor	At-Large

AIRPORTS ADVISORY COMMITTEE (3 years)
--

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Brian Elson; appointed 7/13-1/15 by Hyland) Term exp. 1/18 <i>Resigned</i>	Mount Vernon District Business Representative		Storck	Mount Vernon
VACANT (Formerly held by Robert A. Peter; appointed 2/09-1/13 by Smyth) Term exp. 1/16 <i>Resigned</i>	Providence District Representative		L. Smyth	Providence

**ALCOHOL SAFETY ACTION PROGRAM LOCAL POLICY BOARD (ASAP)
(3 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Grant Nelson (Appointed 10/95- 5/01 by Hanley; 6/04- 9/07 by Connolly; 6/10-7/13 by Bulova) Term exp. 6/16	At-Large #2 Representative		By Any Supervisor	At-Large
Darren Dickens (Appointed 11/96- 5/01 by Hanley; 6/04- 10/07 by Connolly; 6/10-7/13 by Bulova) Term exp. 6/16	At-Large #3 Representative		By Any Supervisor	At-Large

ANIMAL SERVICES ADVISORY COMMISSION (2 years)

[Note: In addition to attendance at Commission meetings, members shall volunteer at least 24 hours per year in some capacity for the Animal Services Division.]

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Barbara Hyde; appointed 9/13-9/14 by Gross) Term exp. 2/16 <i>Resigned</i>	Mason District Representative		Gross	Mason
Gina Marie Lynch (Appointed 11/97- 3/14 by Hyland) Term exp. 2/16	Mount Vernon District Representative		Storck	Mount Vernon

ARCHITECTURAL REVIEW BOARD (3 years)

[NOTE: Members shall be appointed by the Board of Supervisors as follows: at least two (2) members shall be certified architects; one (1) landscape architect authorized to practice in Virginia; one (1) lawyer with membership in the Virginia Bar; six (6) other members shall be drawn from the ranks of related professional groups such as archaeologists, historians, lawyers, and real estate brokers.]

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Charles R. Bierce (Appointed 11/86 by Egge; 8/89-9/13 by Hyland) Term exp. 9/16	Architect #1 Representative		By Any Supervisor	At-Large
VACANT (John Boland; appointed 2/91-9/95 by Dix; 7/01 by Mendelsohn; 9/04- 9/07 by DuBois; 9/10-9/13 by Foust) Term exp. 9/16 <i>Resigned</i>	Attorney Representative		By Any Supervisor	At-Large
Joseph Plumpe (Appointed 9/07-9/13 by Frey) Term exp. 9/16	Landscape Architect Representative		By Any Supervisor	At-Large
John Allen Burns (Appointed 6/95-7/01 by Hanley; 10/04- 9/13 by Hyland) Term exp. 9/16	Architect #2 Representative		By Any Supervisor	At-Large

ATHLETIC COUNCIL (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Terry Adams (Appointed 11/11-7/13 by Gross) Term exp. 6/15	Mason District Alternate Representative		Gross	Mason
VACANT (Formerly held by Jonathan Willmott; Appointed 5/07-4/15 by Hyland) Term exp. 3/17 <i>Resigned</i>	Mount Vernon District Principal Representative		Storck	Mount Vernon
Clarke Gray (Appointed 1/08-10/14 by L. Smyth) Term exp. 9/16	Providence District Representative	Clarke Gray	L. Smyth	Providence

AUDIT COMMITTEE (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Christopher Wade (Appointed 1/12-1/14 by Bulova) Term exp. 1/16	At-Large #1 Representative		By Any Supervisor	At-Large

**BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE
(1 year)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Judith Fogel; appointed 6/12-5/15 by Gross) Term exp. 6/16 <i>Resigned</i>	Mason District Representative		Gross	Mason
VACANT (Formerly held by Brett Kenney; appointed 10/13-9/15 by Hyland) Term exp. 6/16 <i>Resigned</i>	Mount Vernon District Representative		Storck	Mount Vernon

BOARD OF BUILDING AND FIRE PREVENTION CODE APPEALS (4 years)

(No official, technical assistant, inspector or other employee of the DPWES, DPZ,
or FR shall serve as a member of the board.)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Susan Kim Harris; appointed 5/09-2/11 by Hudgins) Term exp. 2/15 <i>Resigned</i>	Alternate #4 Representative		By Any Supervisor	At-Large

CELEBRATE FAIRFAX, INC. BOARD OF DIRECTORS
(2 years – limited to 3 consecutive terms)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Jason M. Chung (Appointed 2/11-9/14 by Frey) Term exp. 9/16 <i>Not eligible for reappointment</i>	At-Large #2 Representative		By Any Supervisor	At-Large
Jill Patrick (Appointed 9/09-9/14 by Gross) Term exp. 9/15 <i>Not eligible for reappointment</i>	At-Large #3 Representative		By Any Supervisor	At-Large

CHESAPEAKE BAY PRESERVATION ORDINANCE
EXCEPTION REVIEW COMMITTEE (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Stephen Kirby; appointed 12/03-1/08 by Kauffman; 9/11 by McKay) Term exp. 9/15 <i>Resigned</i>	Lee District Representative		McKay	Lee
VACANT (Formerly held by Brian Loo; appointed 7/12 by Smyth) Term exp. 9/15 <i>Resigned</i>	Providence District Representative		L. Smyth	Providence

CHILD CARE ADVISORY COUNCIL (2 years)
--

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Courtney Park (Appointed 2/10-10/14 by Hudgins) Term exp. 9/16	Hunter Mill District Representative		Hudgins	Hunter Mill
Wynne Busman (Appointed 11/12-9/14 by Gross) Term exp. 9/16	Mason District Representative		Gross	Mason
VACANT (Formerly held by Eric Rardin; appointed 4/13 by Hyland) Term exp. 9/15 <i>Resigned</i>	Mount Vernon District Representative		Storck	Mount Vernon
VACANT (Formerly held by Hugh Mc Cannon; appointed 12/09-9/14 by Herrity) Term exp. 9/16 <i>Resigned</i>	Springfield District Representative		Herrity	Springfield

CITIZEN CORPS COUNCIL, FAIRFAX COUNTY (2 years)
--

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Lance Lorenz; appointed 3/15 by Hudgins) Term exp. 5/16 <i>Resigned</i>	Hunter Mill District Representative		Hudgins	Hunter Mill

Continued on next page

CITIZEN CORPS COUNCIL, FAIRFAX COUNTY (2 years)
 continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Alan Potter; appointed 3/14 by Smyth) Term exp. 5/16 <i>Resigned</i>	Providence District Representative		L. Smyth	Providence
Karrie K. Delaney (Appointed 10/10-5/14 by Frey) Term exp. 5/16	Sully District Representative		K. Smith	Sully

COMMISSION FOR WOMEN (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Sondra Seba Hemenway (Appointed 2/12-10/13 by Bulova) Term exp. 10/16	At-Large Chairman's Representative	Sondra Seba Hemenway	Bulova	At-Large Chairman's
Emily B. McCoy (Appointed 8/82-9/95 by Alexander; 9/98-10/04 by Kauffman; 2/08-10/13 by McKay) Term exp. 10/16	Lee District Representative		McKay	Lee
Cynthia Bhatnagar (Appointed 10/13 by Gross) Term exp. 10/16	Mason District Representative		Gross	Mason

Continued on next page

COMMISSION FOR WOMEN (3 years)
continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Maria Jarmila Vorel (Appointed 10/13 by Hyland) Term exp. 10/16	Mount Vernon District Representative		Storck	Mount Vernon
Barbara Lippa (Appointed 10/13 by Frey) Term exp. 10/16	Sully District Representative	Barbara Lippa	K. Smith	Sully

COMMISSION ON AGING (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Eleanor Fusaro; appointed 1/14-5/14 by Hudgins) Term exp. 5/16 <i>Resigned</i>	Hunter Mill District Representative		Hudgins	Hunter Mill
VACANT (Formerly held by Denton Urban Kent; Appointed 9/14 by Gross) Term exp. 5/16 <i>Resigned</i>	Mason District Representative		Gross	Mason

**COMMISSION ON ORGAN AND TISSUE DONATION AND TRANSPLANTATION
(4 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Benjamin Gibson; appointed 4/11 by McKay) Term exp. 1/15 <i>Resigned</i>	Lee District Representative		McKay	Lee
VACANT (Formerly held by William Stephens; appointed 9/02-1/03 by McConnell; 1/07-1/11 by Herrity) Term exp. 1/15 <i>Resigned</i>	Springfield District Representative		Herrity	Springfield

**COMMUNITY ACTION ADVISORY BOARD (CAAB)
(3 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Rodney Scott; appointed 3/11-2/14 by Hudgins) Term exp. 2/17 <i>Resigned</i>	Hunter Mill District Representative		Hudgins	Hunter Mill
Gregory W. Packer (Appointed 9/10-2/13 by Hyland) Term exp. 2/16	Mount Vernon District Representative		Storck	Mount Vernon

CONSUMER PROTECTION COMMISSION
(3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Adam Samuel Roth; appointed 9/15 by L. Smyth) Term exp. 7/18 <i>Resigned</i>	Fairfax County Resident #13 Representative		By Any Supervisor	At-Large

CRIMINAL JUSTICE ADVISORY BOARD (CJAB) (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Howard Foard; appointed 11/12-10/15 by Hudgins) Term exp. 8/18 <i>Resigned</i>	At-Large Representative		By Any Supervisor	At-Large
Brian D. Leclair (Appointed 10/13 by Hyland) Term exp. 8/16	Mount Vernon District Representative		Storck	Mount Vernon
VACANT (Formerly held by Joseph A. Jay, appointed 11/06 by McConnell; 9/09-9/12 by Herrity) Term exp. 8/15 <i>Resigned</i>	Springfield District Representative		Herrity	Springfield

FAIRFAX AREA DISABILITY SERVICES BOARD**(3 years- limited to 2 full consecutive terms per MOU, after initial term)**

[NOTE: Persons may be reappointed after being off for 3 years. State Code requires that membership in the local disabilities board include at least 30 percent representation by individuals with physical, visual or hearing disabilities or their family members. For this 15-member board, the minimum number of representation would be 5.

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Petra Osborne; appointed 5/12 by Bulova) Term exp. 11/15 <i>Resigned</i>	At-Large Fairfax County Representative	Thomas Bash (Bulova)	By Any Supervisor	At-Large
Jacqueline Browne (Appointed 9/08- 12/11 by Gross) Term exp. 11/14	Mason District Representative		Gross	Mason

FAIRFAX-FALLS CHURCH COMMUNITY SERVICES BOARD**(3 years – limited to 3 full terms)**

[NOTE: In accordance with *Virginia Code* Section 37.2-501, "prior to making appointments, the governing body shall disclose the names of those persons being considered for appointment." Members can be reappointed after 1 year break from initial 3 full terms, VA Code 37.2-502.

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Pamela Barrett (Appointed 9/09-6/12 by Bulova) Term exp. 6/15	At-Large #1 Chairman's Representative	Daria Akers <i>(Will be confirmed on November 1, 2016)</i>	Bulova	At-Large Chairman's
Paul Luisada (Appointed 4/13-9/13 by Hyland) Term exp. 6/16	Mount Vernon District Representative		Storck	Mount Vernon
VACANT (Formerly held by Jeffrey M. Wisoff; appointed 6/13-6/14 by Smyth) Term exp. 6/17 <i>Resigned</i>	Providence District Representative		L. Smyth	Providence

<p align="center">GEOTECHNICAL REVIEW BOARD (3 years)</p>
--

CONFIRMATIONS NEEDED:

- Mr. J. Christopher Giese as the Alternate #2 Representative

<p align="center">HEALTH SYSTEMS AGENCY BOARD (3 years - limited to 2 full terms, may be reappointed after 1 year lapse)</p>

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Phil Tobey; appointed 6/11-5/14 by Hudgins) Term exp. 6/17 <i>Resigned</i>	Consumer #2 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Ananth Thyagarajan; Appointed 7/15 by Bulova) Term exp. 6/18 <i>Resigned</i>	Provider #1 Representative		By Any Supervisor	At-Large

HISTORY COMMISSION (3 years)

[NOTE: The Commission shall include at least one member who is a resident from each supervisor district.] Current Membership:

Braddock - 3	Lee - 2	Providence - 1
Dranesville - 2	Mason - 1	Springfield - 2
Hunter Mill - 3	Mt. Vernon - 2	Sully - 2

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Carrie Ann Alford; appointed 1/15 by Hyland) Term exp. 12/16 <i>Resigned</i> <i>Mt. Vernon District</i>	At-Large #2 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Rachel Rifkind; appointed 12/13 by Gross) Term exp. 9/16 <i>Resigned</i> <i>Mason District</i>	Citizen #7 Representative		By Any Supervisor	At-Large

HUMAN RIGHTS COMMISSION (3 years)
--

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Emanuel Solon (Appointed 9/95-7/01 by Connolly; 9/04-9/13 by L. Smyth) Term exp. 9/16	At-Large #5 Representative	Emanuel Solon (L. Smyth)	By Any Supervisor	At-Large
Ahmed Selim (Appointed 7/08-9/10 by Gross; 4/14 by L. Smyth) Term exp. 9/16	At-Large #6 Representative	Ahmed Selim (L. Smyth)	By Any Supervisor	At-Large
VACANT (Formerly held by Michel Margosis; appointed 7/03-1/08 by Kauffman; 9/10-9/13 by McKay) Term exp. 9/16 <i>Resigned</i>	At-Large #7 Representative		By Any Supervisor	At-Large

HUMAN SERVICES COUNCIL (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Sergio R. Rimola (Appointed 6/15 by Foust) Term exp. 7/16	Dranesville District #2 Representative		Foust	Dranesville
VACANT (Formerly held by Stephanie Mensh; appointed 1/06-7/14) Term exp. 7/18 <i>Resigned</i>	Mason District #1 Representative		Gross	Mason

Continued on next page

HUMAN SERVICES COUNCIL (4 years)
 continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Mark K. Deal; appointed 11/11-7/13 by Gross) Term exp. 7/17 <i>Resigned</i>	Mason District #2 Representative		Gross	Mason
Jack Dobbyn (Appointed 2/13 by Hyland) Term exp. 7/16	Mount Vernon District #1 Representative		Storck	Mount Vernon

**INDUSTRIAL DEVELOPMENT AUTHORITY
(4 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Robert J. Surovell (Appointed 9/84 by Scott; 11/88-12/12 by Hyland) Term exp. 10/16	At-Large #1 Representative	Robert J. Surovell (Storck)	By Any Supervisor	At-Large
Charles Watson (Appointed 3/05- 10/12 by L. Smyth) Term exp. 10/16	At-Large #7 Representative	Charles Watson (L. Smyth)	By Any Supervisor	At-Large

**JUVENILE AND DOMESTIC RELATIONS COURT CITIZENS ADVISORY
COUNCIL (2 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Brian Murray; appointed 3/08-1/14 by McKay) Term exp. 1/16 <i>Resigned</i>	Lee District Representative		McKay	Lee
Michael J. Beattie (Appointed 7/11- 1/14 by Smyth) Term exp. 1/16	Providence District Representative		L. Smyth	Providence

**NORTHERN VIRGINIA REGIONAL PARK AUTHORITY
(4 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Stella Koch (Appointed 3/10- 11/12 by Bulova) Term exp. 10/16	Fairfax County #2 Representative		By Any Supervisor	At-Large

OVERSIGHT COMMITTEE ON DRINKING AND DRIVING (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by William Uehling; appointed 3/10-7/12 by Bulova) Term exp. 6/15 <i>Resigned</i>	Braddock District Representative		Cook	Braddock
VACANT (Formerly held by Amy K. Reif; appointed 8/09-6/12 by Foust) Term exp. 6/15 <i>Resigned</i>	Dranesville District Representative		Foust	Dranesville
VACANT (Formerly held by Adam Parnes; appointed 9/03-6/12 by Hudgins) Term exp. 6/15 <i>Resigned</i>	Hunter Mill District Representative		Hudgins	Hunter Mill
VACANT (Formerly held by Richard Nilsen; appointed 3/10-6/10 by McKay) Term exp. 6/13 <i>Resigned</i>	Lee District Representative		McKay	Lee
VACANT (Formerly held by Jeffrey Levy; Appointed 7/02-6/13 by Hyland) Term exp. 6/16 <i>Resigned</i>	Mount Vernon District Representative		Storck	Mount Vernon

Continued on next page

OVERSIGHT COMMITTEE ON DRINKING AND DRIVING (3 years)

continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Tina Montgomery; appointed 9/10-6/11 by Smyth) Term exp. 6/14 <i>Resigned</i>	Providence District Representative		L. Smyth	Providence

PARK AUTHORITY (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Edward Batten; appointed 1/03-1/08 by Kauffman; 12/11- 1/16 by McKay) Term exp. 12/19 <i>Resigned</i>	Lee District Representative		McKay	Lee

POLICE OFFICERS RETIREMENT SYSTEM BOARD OF TRUSTEES (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Craig Dyson; appointed 1/06-11/13 by Hyland) Term exp. 12/17 <i>Resigned</i>	Citizen At-Large #1 Representative		By Any Supervisor	At-Large

**REDEVELOPMENT AND HOUSING AUTHORITY
(4 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by John Betts; appointed 3/11-4/13 by Herrity) Term exp. 4/17 <i>Deceased</i>	Springfield District Representative		Herrity	Springfield
Robert Carlson (Appointed 4/08- 7/12 by Frey) Term exp. 7/16	Sully District Representative		K. Smith	Sully

ROAD VIEWERS BOARD (1 year)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Joseph Bunnell; appointed 9/05-12/06 by McConnell; 2/08- 11/13 by Herrity) Term exp. 12/14 <i>Resigned</i>	At-Large #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Stephen E. Still; appointed 6/06-12/11 by Smyth) Term exp. 12/12 <i>Resigned</i>	At-Large #4 Representative		By Any Supervisor	At-Large

SOUTHGATE COMMUNITY CENTER ADVISORY COUNCIL (2 years)
--

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Sylvie Ludunge; appointed 10/14-3/15 by Hudgins) Term exp. 3/17 <i>Resigned</i>	Fairfax County #2 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Robert Dim; appointed 3/05-3/12 by Hudgins) Term exp. 3/14 <i>Resigned</i>	Fairfax County #5 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Cleveland Williams; appointed 12/11-3/13 by Hudgins) Term exp. 3/15 <i>Resigned</i>	Fairfax County #7 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Linda Diamond; appointed 3/07-4/13 by Hudgins) Term exp. 3/15 <i>Resigned</i>	Fairfax County #8 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Morsel Osman; (Appointed 1/15 by Hudgins) Term exp. 3/16 <i>Resigned</i>	Fairfax County #9 (Youth) Representative		By Any Supervisor	At-Large

TENANT LANDLORD COMMISSION (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Sally D. Liff; appointed 8/04-1/11 by Smyth) Term exp. 1/14 <i>Deceased</i>	Condo Owner Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Kevin Denton; appointed 4/10&1/11 by Smyth) Term exp. 1/14 <i>Resigned</i>	Tenant Member #3 Representative		By Any Supervisor	At-Large

TREE COMMISSION (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Scott J. Pearson; appointed 3/11-10/13 by Gross) Term exp. 10/16 <i>Resigned</i>	Mason District Representative		Gross	Mason
VACANT (Formerly held by Charles Ayers (Appointed 12/13-10/14 by L. Smyth) Term exp. 10/17 <i>Resigned</i>	Providence District Representative		L. Smyth	Providence

**TYSONS TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD
(2 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Michael Bogasky; appointed 2/13 by Smyth) Term exp. 2/15 <i>Resigned</i>	Residential Owners and HOA/Civic Association Representative #1		L. Smyth	Providence

WETLANDS BOARD (5 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Elizabeth Martin (Appointed 11/09 by Gross) Term exp. 12/13	At-Large #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Julia E. Pfaff; appointed 9/10-11/14 by McKay) Term exp. 12/19 <i>Resigned</i>	Lee District Representative		McKay	Lee

Board Agenda Item
October 18, 2016

10:20 a.m.

Items Presented by the County Executive

Board Agenda Item
October 18, 2016

ADMINISTRATIVE - 1

Approval of “Watch for Children” Signs as Part of the Residential Traffic Administration Program (Providence and Springfield Districts)

ISSUE:

Board endorsement of “Watch for Children” signs, as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:

The County Executive recommends approval for “Watch for Children” signs on the following streets:

- Fairview Park Drive (Providence District)
- Oak Valley Drive (Providence District)
- Williams Avenue (Providence District)
- Spring Lake Drive (Springfield District)

In addition, the County Executive recommends that the Fairfax County Department of Transportation (FCDOT) be requested to schedule the installation of the approved signs as soon as possible.

TIMING:

Board action is requested on October 18, 2016.

BACKGROUND:

The RTAP allows for installation of “Watch for Children” signs at the primary entrance to residential neighborhoods, or at a location with an extremely high concentration of children relative to the area, such as playgrounds, day care centers, or community centers. FCDOT reviews each request to ensure the proposed sign will be effectively located and will not be in conflict with any other traffic control devices. On July 28, 2016 (Fairview Park Drive, Providence District) and on July 27, 2016 (Oak Valley Drive, Providence District) and on July 27, 2016 (Williams Avenue, Providence District), and on September 12, 2016 (Spring Lake Drive, Springfield District) FCDOT received written verification from the respective local Supervisor’s office confirming community support for the referenced “Watch for Children” signs.

Board Agenda Item
October 18, 2016

FISCAL IMPACT:

Funding in the amount of \$1,200 for the “Watch for Children” signs associated with the Fairview Park Drive, Oak Valley Drive and Williams Avenue (Providence District) and Spring Lake Drive (Springfield District) projects is available in Fund100-C10001, General Fund, under Job Number 40TTCP.

ENCLOSED DOCUMENTS:

None

STAFF:

Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric M. Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT
Neil Freschman, Chief, Traffic Engineering Section, FCDOT
Steven K. Knudsen, Transportation Planner, Traffic Engineering Section, FCDOT
Behnaz Razavi, Transportation Planner, Traffic Engineering Section, FCDOT

Board Agenda Item
October 18, 2016

ADMINISTRATIVE – 2

Streets into the Secondary System (Mount Vernon District)

ISSUE:

Board approval of streets to be accepted into the State Secondary System.

RECOMMENDATION:

The County Executive recommends that the street(s) listed below be added to the State Secondary System.

<u>Subdivision</u>	<u>District</u>	<u>Street</u>
Huntington Mews Section 1	Mt. Vernon	Foley Street
Huntington Mews Section 2	Mt. Vernon	Hunting Creek Road

TIMING:

Routine.

BACKGROUND:

Inspection has been made of these streets, and they are recommended for acceptance into the State Secondary System.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Street Acceptance Forms

STAFF:

Robert A. Stalzer, Deputy County Executive
William D. Hicks, P.E., Director, Land Development Services

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.		VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.	
		PLAN NUMBER: 7995-SP-001	
		SUBDIVISION PLAT NAME: Huntington Mews Section 1	
		COUNTY MAGISTERIAL DISTRICT: Mount Vernon	
ENGINEERING MANAGER: Imad A. Salous, P.E. BY: <i>Radia Aghajanyan</i>		FOR OFFICIAL USE ONLY DATE OF VDOT INSPECTION APPROVAL: 07/22/2016	
STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Foley Street	Existing Foley Street (Route 1324) - 383' NE CL Huntington Avenue (Route 1332)	69' NE to End of Cul-de-Sac	0.01
NOTES:			TOTALS:
Foley Street: 5' Concrete Sidewalk on Both Sides to be maintained by VDOT.			0.01

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

**FAIRFAX COUNTY BOARD OF SUPERVISORS
FAIRFAX, VA**

Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.

**VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE
OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA**

REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.

PLAN NUMBER: 7995-SP-002

SUBDIVISION PLAT NAME: Huntington Mews Section 2

COUNTY MAGISTERIAL DISTRICT: Mount Vernon

ENGINEERING MANAGER: Imad A. Salous, P.E.

BY: *Nadia Alphonse*

FOR OFFICIAL USE ONLY

DATE OF VDOT INSPECTION APPROVAL: 07/22/2016

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Hunting Creek Road	Existing Hunting Creek Road (Route 1325) - 775' NE CL Huntington Avenue (Route 1332)	102' NE to End of Cul-de-Sac	0.02
NOTES:			TOTALS: 0.02

Hunting Creek Road: 5' Concrete Sidewalk on West Side to be maintained by VDOT.

Board Agenda Item
October 18, 2016

ADMINISTRATIVE - 3

Additional Time to Obtain a Non Residential Use Permit (Non-RUP) for Special Exception SE 2012-PR-012, TD Bank, N.A. (Providence District)

ISSUE:

Board consideration of additional time to obtain a Non-RUP for SE 2012-PR-012, pursuant to the provisions of Sect. 9-015 of the Zoning Ordinance.

RECOMMENDATION:

The County Executive recommends that the Board approve twelve (12) months additional time for SE 2012-PR-012 to December 18, 2017.

TIMING:

Routine.

BACKGROUND:

Under Sect. 9-015 of the Zoning Ordinance, if the use is not established or if construction is not commenced within the time specified by the Board of Supervisors, an approved special exception shall automatically expire without notice unless the Board approves additional time. A request for additional time must be filed with the Zoning Administrator prior to the expiration date of the special exception. The Board may approve additional time if it determines that the use is in accordance with the applicable provisions of the Zoning Ordinance and that approval of additional time is in the public interest.

On June 18, 2013, the Board of Supervisors approved Special Exception SE 2012-PR-012, subject to development conditions. The application was filed in the name of TD Bank, National Association, for the purpose of permitting a drive-in financial institution within the C-5 zoning district for property located at 7230 Arlington Boulevard, Tax Map 50-3 ((5)) (5) 501 (see Locator Map in Attachment 1). The drive-in financial institution, a Category 5 special exception use, is permitted pursuant to Section 4-504 of the Fairfax County Zoning Ordinance. SE 2012-PR-012 was approved with a condition that the use be established as evidenced by the issuance of a Non-RUP for the drive-in financial institution use within thirty (30) months of the approval date unless the Board grants additional time. The development conditions for SE 2012-PR-012 are included as part of the Clerk to the Board's letter contained in Attachment 2.

Board Agenda Item
October 18, 2016

On March 1, 2016, the Board of Supervisors approved twelve (12) months of additional time, to December 18, 2016. On August 16, 2016, the Department of Planning and Zoning (DPZ) received a letter dated August 12, 2016, from Mark M. Viani, agent for the Applicant, requesting twelve (12) months of additional time (see Attachment 3). The approved Special Exception will not expire pending the Board's action on the request for additional time.

As part of the justification for the March 1, 2016 request for additional time, Mr. Taylor of Bean, Kenny & Korman stated that a sight distance waiver request to the Virginia Department of Transportation was pending, delaying the approval of the site plan and the issuance of a building permit. The waiver has since been approved by VDOT. Mr. Viani states additional time is now necessary to secure the appropriate building permits necessary to begin construction. TD Bank has been diligently pursuing such permits but has encountered delays in meeting the 2014 Stormwater Management (SWM) requirements which necessitated a redesign of the SWM plan. Mr. Viani anticipates construction to begin as soon as all appropriate permits have been obtained. Staff has consulted with Land Development Services (LDS) and would note that, as of this writing, there are a number of outstanding approvals necessary to proceed with commencing construction. These outstanding approvals include: site plan, Phase I EPA assessment, and three waivers for underground detention, interparcel access, and a service drive. In addition, the language contained within the June 19, 2013 Clerk's letter for SE 2012-PR-012 more specifically states the establishment of the use is contingent upon the issuance of a Non-RUP as opposed to the commencement of construction trigger noted by Section 9-015. The request for twelve (12) months of additional time will allow for the commencement and completion of construction prior to the issuance of a final Non-RUP.

Staff has reviewed Special Exception SE 2012-PR-012 and has established that, as approved, it is still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance to permit a drive-in financial institution within a C-5 zoning district. Further, staff knows of no change in land use circumstances that affects compliance of SE 2012-PR-012 with the special exception standards applicable to this use, or which should cause the filing of a new special exception application and review through the public hearing process. The Comprehensive Plan recommendation for the property has not changed since approval of the Special Exception. Finally, the conditions associated with the Board's approval of SE 2012-PR-012 are still appropriate and remain in full force and effect. Staff believes that approval of the request for twelve (12) months additional time is in the public interest and recommends that it be approved.

Board Agenda Item
October 18, 2016

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:

Attachment 1: Locator Map

Attachment 2: Letter dated June 19, 2013, to Frederick R. Taylor

Attachment 3: Letter dated August 12, 2016, received August 16, 2016,
to Leslie B. Johnson

STAFF:

Robert A. Stalzer, Deputy County Executive

Fred R. Selden, Director, Department of Planning and Zoning (DPZ)

Barbara C. Berlin, Director, Zoning Evaluation Division (ZED), DPZ

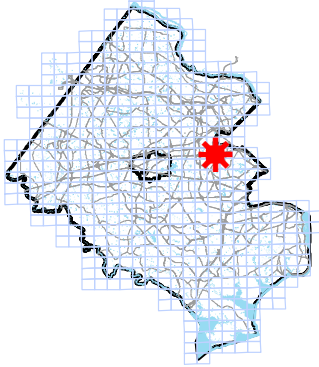
Suzanne Wright, Chief, Special Projects/Applications/Management Branch, ZED, DPZ

Denise James, Chief, Environment and Development Review Branch, Planning Division,
DPZ

Laura O'Leary, Staff Coordinator, ZED, DPZ

Special Exception

SE 2012-PR-012



Applicant: TD BANK, NATIONAL ASSOCIATION
 Accepted: 06/14/2012
 Proposed: DRIVE-IN FINANCIAL INSTITUTION
 Area: 27491 SF OF LAND; DISTRICT - PROVIDENCE
 ZIP - 22042

Zoning Dist Sect: 04-0504

Art 9 Group and Use: 5-06

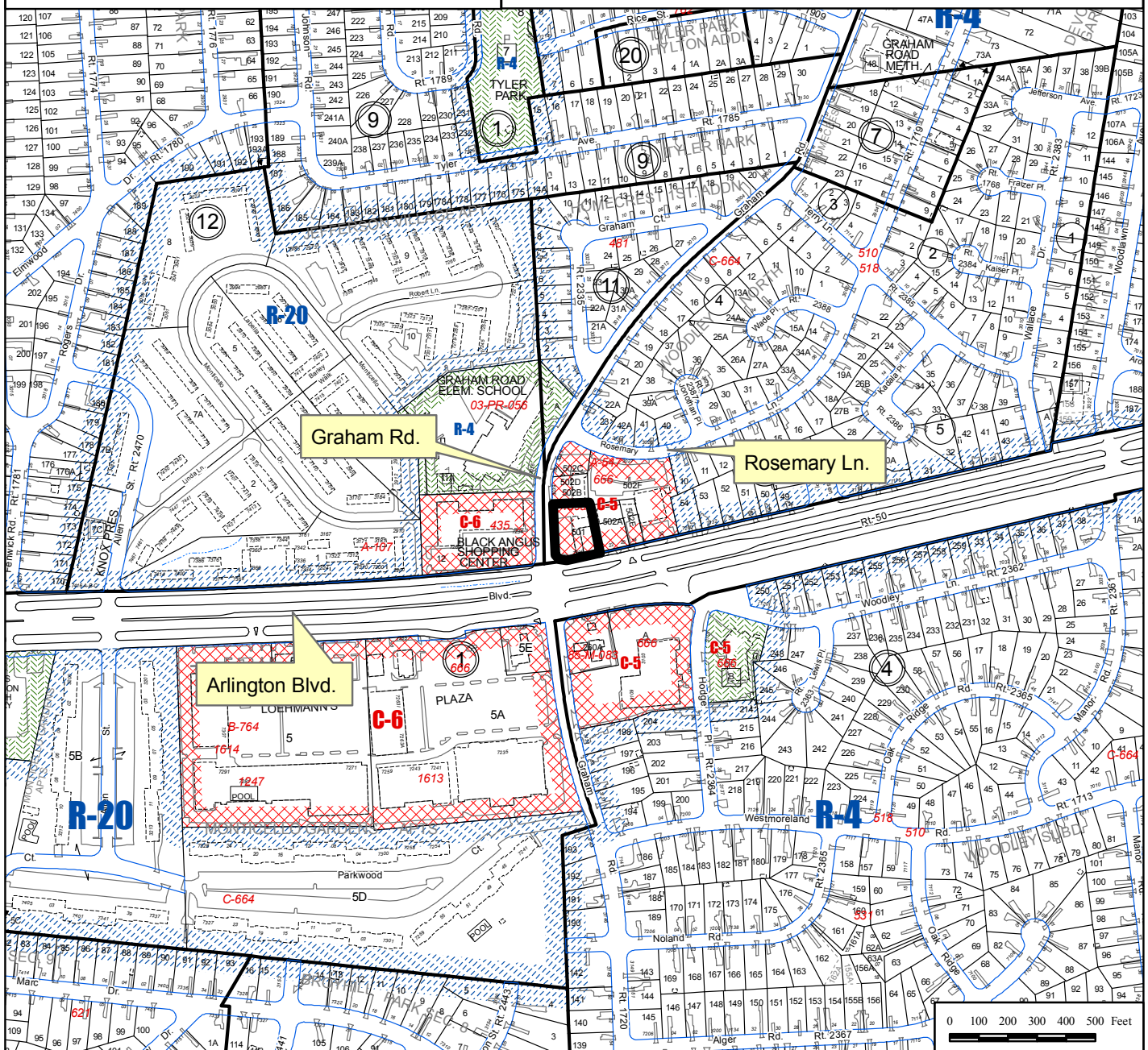
Located: 7230 ARLINGTON BOULEVARD, FALLS
 CHURCH, VA 22042

Zoning: C- 5

Plan Area: 1

Map Ref Num: 050-3- /05/05/0501

ATTACHMENT 1





County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

June 19, 2013

Frederick R. Taylor
Bean, Kinney and Korman, P.C.
2300 Wilson Boulevard, 7th Floor
Arlington, VA 22201

Re: Special Exception Application SE 2012-PR-012

Dear Mr. Taylor:

At a regular meeting of the Board of Supervisors held on June 18, 2013, the Board approved Special Exception Application SE 2012-PR-012 in the name of TD Bank, National Association. The subject property is located at 7230 Arlington Boulevard, on approximately 27,491 square feet of land, zoned C-5 in the Providence District [Tax Map 50-3 ((5)) (5) 501]. The Board's action permits a drive-in financial institution, pursuant to Sections 4-504 of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions:

1. This Special Exception Amendment is granted for and runs with the land indicated in this application and is not transferable to other land.
2. This Special Exception Amendment is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions.
3. This Special Exception Amendment is subject to the provision of Article 17, Site Plans as may be determined by the Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this Special Exception shall be in substantial conformance with the approved Special Exception Plat entitled "Special Exception Plat for TD" prepared by Bohler Engineering, which is dated March 22, 2012 and revised through May 22, 2013 and these conditions. Minor modifications to the approved Special Exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

Office of the Clerk to the Board of Supervisors
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035

Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 703-324-3903
Email: clerktothebos@fairfaxcounty.gov
<http://www.fairfaxcounty.gov/bosclerk>

4. A copy of this Special Exception and the Non-Residential Use Permit shall be posted in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

OPERATIONAL:

5. Hours of operation of the bank shall not exceed 8:00 a.m. to 8:00 p.m. Monday through Friday, 8:00 a.m. to 3:00 p.m. on Saturdays, and 12:00 p.m. to 4:00 p.m. on Sundays.
6. There shall be a maximum of seven employees on-site at any one time.

ENVIRONMENTAL:

7. Prior to site plan approval, the applicant must perform a Phase I EPA assessment on the site and, if contamination is identified, must develop and begin implementation of a remediation plan to address any revealed contamination, to the satisfaction of the Virginia Department of Environmental Quality (DEQ).

ARCHITECTURAL:

8. Architectural elevations and building materials shall be in substantial conformance with those shown on the SE Plat.
9. All retaining walls shall incorporate split-face Concrete Masonry Unit (CMU) materials similar to the building façade.

LANDSCAPING:

10. Landscaping and sidewalk treatments shall be provided as generally shown on the Special Exception Plat, subject to review and approval of the Urban Forestry Management Division of the Department of Public Works and Environmental Services (DPWES).

TRANSPORTATION:

11. Prior to issuance of a Non-RUP, a 23-foot wide interparcel access easement shall be recorded, as depicted on the SE plat, to provide future access to the parcel to the east.

12. Prior to issuance of a Non-RUP, the applicant shall grant an easement to provide public access to the sidewalk along Graham Road. Such easement shall be subject to a private maintenance agreement in a form acceptable to the County Attorney.
13. Two drive-thru lanes shall be open to provide adequate vehicle stacking at all times.
14. The location and orientation of the retaining walls and sidewalk at the northwest corner of the site, from the Graham Road access north, shall be subject to FCDOT and VDOT review and approval at site plan.
15. Final layout of bicycle rack location and orientation shall be subject to FCDOT approval at site plan.

STORMWATER:

16. Stormwater management/BMP facilities shall be determined by DPWES to meet all PFM requirements prior to final site plan approval, regardless of any waiver requests.

SIGNAGE/LIGHTING:

17. All signage shall comply with the provisions of Article 12 of the Zoning Ordinance.
18. No freestanding commercial signs, other than the 20' pylon sign depicted on the SE plat, shall be permitted. Bank logos or other advertising shall not be placed on any directional signage.
19. All lighting, including streetlights, security lighting, signage lighting (during the allowed hours as listed within these conditions) and pedestrian or other incidental lighting, shall be in conformance with Part 9 of Article 14 of the Zoning Ordinance.

GREEN BUILDING:

20. A. The Applicant shall include, as part of the site plan submission and building plan submission for the building, a list of specific credits within the most current version of the U. S. Green Building Council's Leadership in Energy and Environmental Design — New Construction (LEED®-NC) rating system, or other LEED rating system determined to be applicable to the financial institution by the U. S. Green Building Council (USGBC), that the Applicant anticipates attaining. At least one principal participant of the Applicant's project team shall be a Licensed Architect, Licensed Landscape Architect, or Professional Engineer, and a LEED Accredited Professional, and such professional shall provide certification statements at both the time of site plan review and the time of building plan review confirming that the

items on the list are expected to meet at least the minimum number of credits necessary to attain LEED certification for the financial institution.

B. Prior to approval of the site plan, the applicant will post a "green building escrow," in the form of cash or a letter of credit from a financial institute acceptable to DPWES as defined in the Public Facilities Manual, in the amount of \$70,000. This escrow will be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of certification, by the U.S. Green Building Council, under the most current version of the LEED®-NC rating system or other LEED rating system determined, by the U.S. Green Building Council, to be applicable to the building. The provision to the Environment and Development Review Branch of DPZ, within two years of issuance of the RUP/non-RUP for the building, of documentation from the U.S. Green Building Council that the building has attained LEED certification will be sufficient to satisfy this commitment.

C. If the applicant provides to the Environment and Development Review Branch of DPZ, within two years of issuance of the RUP/non-RUP for the building, documentation demonstrating that LEED certification for the building has not been attained but that the building has been determined by the U.S. Green Building Council to fall within three points of attainment of LEED certification, 50% of the escrow will be released to the applicant; the other 50% will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives.

D. If the applicant fails to provide, within two years of issuance of the RUP/non-RUP for the building, documentation to the Environment and Development Review Branch of DPZ demonstrating attainment of LEED certification or demonstrating that the building has fallen short of certification by three points or less, the entirety of the escrow for that building will be released to Fairfax County and will be posted to a fund within the county budget supporting implementation of county environmental initiatives.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, thirty (30) months after the date of approval unless, at a minimum, the use has been established or construction has commenced and been diligently prosecuted as evidenced by the issuance of a Non-Residential Use Permit for the use. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must

specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

The Board also:

- Waived the loading space requirements.
- Approved deviation from the tree preservation target in favor of the landscaping shown on SE Plat.
- Modified the major trail requirements to accept five-foot concrete sidewalks along both street frontages.

Sincerely,



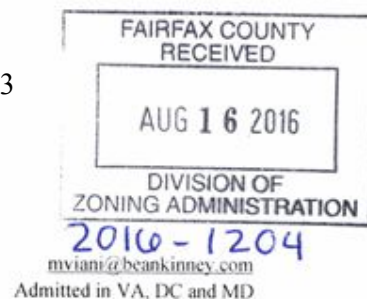
Catherine A. Chianese
Clerk to the Board of Supervisors

cc: Chairman Sharon Bulova
Supervisor Linda Smyth, Providence, District
Tim Shirocky, Acting Director, Real Estate Division, Dept. of Tax Administration
Barbara C. Berlin, Director, Zoning Evaluation Division, DPZ
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning
Angela K. Rodeheaver, Section Chief, Transportation Planning Division
Donald Stephens, Transportation Planning Division
Ken Williams, Plans & Document Control, ESRD, DPWES
Department of Highways-VDOT
Sandy Stallman, Park Planning Branch Manager, FCPA
Charlene Fuhrman-Schulz, Development Officer, DHCD/Design Development Division
Planning Commission
Karyn Moreland, Chief Capital Projects Sections, Dept. of Transportation



2300 WILSON BOULEVARD
7TH FLOOR
ARLINGTON, VA 22201
PHONE 703.525.4000
FAX 703.525.2207

ATTACHMENT 3



August 12, 2016

Ms. Leslie B. Johnson
Zoning Administrator
Department of Planning and Zoning
County of Fairfax
12055 Government Center Parkway, Suite 801
Fairfax, VA 22035-5508

RECEIVED
Department of Planning & Zoning
AUG 16 2016
Zoning Evaluation Division

Re: Special Exception SE 2012-PR-012
TD Bank, N.A.
7230 Arlington Blvd., Falls Church, Virginia 22042
Tax Map No. 0503 05050501
Zoning District C-5
REQUEST FOR ADDITIONAL TIME
Our file #: 5920.147

Dear Ms. Johnson:

The purpose of this letter is to request additional time within which to begin construction on the above-referenced special exception.

We respectfully request that the approval for Special Exception 2012-PR-012 be extended for a period of twelve (12) months, or until December 18, 2017.

This request is being made to permit additional time to secure the appropriate building permits needed to begin construction. While our client has diligently pursued such permits, they have experienced delays in meeting the 2014 Stormwater Management requirements (the "SWM"); which necessitated a re-design of the SWM plan, now under review with County staff. In addition, the site has existing underground storage tanks that must be removed before construction can begin. In our experience, the removal process can take several months to complete.

As a result, it appears that despite the fact that TD Bank will be actively pursuing permit approval and performing pre-construction activities, the timeline for their expected issuance of



building permits and commencement of construction may be delayed beyond the current expiration date of the SE approval, which is December 18, 2016. Rather than wait until the expiration date is imminently upon us, we would like to request additional time to address the necessary permits and then begin construction shortly thereafter.

We have communicated this request to Supervisor Smyth's office and are available for any further discussions, if prudent.

Our client, TD Bank, N.A., looks forward to moving forward with construction as soon as possible, and appreciates the Board's consideration of this request.

If you have any questions or need any other exhibits, please call me or Lauren Keenan Rote, at (703) 525-4000.

Very truly yours,

A handwritten signature in blue ink, consisting of several overlapping loops and a final flourish.

Mark M. Viani

CC: Ms. Suzanne Wright, *via email only*

ADMINISTRATIVE – 4

Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance
Amendment Re: Articles 3, 9, 18, and 20 Regarding Farm Wineries, Limited Breweries,
and Limited Distilleries

ISSUE:

The proposed Zoning Ordinance amendment includes changes that relate to the establishment of a new or the expansion of an existing farm winery, limited brewery, and/or limited distillery located on a farm in the Residential Conservation (R-C) District. The amendment does not seek to establish limitations on the normal operating characteristics of a farm winery, limited brewery, or limited distillery, as such characteristics, including tasting, sales and production, are set forth in the Code of Virginia and are specifically excluded from local regulation. The amendment proposes to amend the definition of agriculture and define farm winery, limited brewery, and limited distillery to include a minimum 20 acre lot size for such uses in all zoning districts where agriculture is permitted (R-A, R-C, R-P, R-E, R-1), except with respect to applications for an ABC Board license already pending prior to this amendment. The amendment establishes new special exception requirements for expansions of buildings, structures and the uses thereof for existing farm winery/brewery/distillery operations, including standards related to events/activities, minimum setbacks, and prohibited uses, among others. The proposed changes regarding the R-C District are necessary in order to comply with changes to Virginia law that were adopted in the 2016 Legislative Session and took effect on July 1, 2016.

RECOMMENDATION:

The County Executive recommends the authorization of the proposed amendment by adoption of the resolution set forth in Attachment 1.

TIMING:

Board action is requested on October 18, 2016, to provide sufficient time to advertise the proposed Planning Commission public hearing on November 16, 2016, at 8:15 p.m., and the proposed Board public hearing on December 6, 2016, at 4:30 p.m.

BACKGROUND:

The proposed amendment is prompted by specific changes to Virginia law that relate to the establishment of a new or the enlargement of an existing farm winery, limited brewery, and/or limited distillery on land zoned Residential Conservation (R-C) District.

Board Agenda Item
October 18, 2016

(Note: in Fairfax County, the R-C District is the “residential conservation” zoning category specified in the applicable provisions of the Code of Virginia.)

The Code of Virginia changes, generally, provide that:

1. No new farm winery, limited brewery, or limited distillery is permitted on land zoned residential conservation (R-C), except for any such operation wherein an application for a license by the Virginia Alcoholic Beverage Control Board (ABC Board) was submitted by July 1, 2016, and such application is ultimately approved.
2. Any existing farm winery, limited brewery, or limited distillery on land zoned residential conservation (R-C) may continue to operate without special exception approval, but any expansion of the buildings, structures or the uses thereof shall be subject to approval of a special exception by the local jurisdiction.

The proposed amendment will prohibit any additional farm wineries, limited breweries, and limited distilleries in the R-C District and will establish a special exception requirement for the expansion of an existing operation and for the development of only those operations for which a license application was submitted to the ABC Board by July 1, 2016. Staff notes that there are two existing licensed wineries and five pending applications for licensure by the ABC Board as of July 1, 2016 on land zoned R-C.

Under staff’s proposal, a special exception would be required for any public or private events or activities, which are not directly related to the tasting, sale, and production of licensed alcoholic beverages, for more than 300 attendees more than one time per month for a duration of more than two days (with advertised flexibility in these numbers.) The Board may impose conditions regarding the number of people, number of events, duration, hours of operation, days of operation, area of the site used for such events/activities, adequacy of water and sanitation services, use of lighting or amplified sound, adequacy of parking and other impacts caused by the proposed event/activity. Staff proposes to prohibit features such as helicopter rides, mechanized amusement rides, lodging, commercial restaurants, fireworks and similar high-impact uses at such events/activities. The proposed standards would also require new buildings/additions/loading spaces to be set back from the property line 50 feet and 100 feet from any adjacent principal structure. Further, new construction for buildings that allow access by the public would require submission of plans certified by a structural engineer and for the certification of framing and footers, once construction is complete.

Additionally, the amendment will create new definitions for farm winery, limited brewery, and limited distillery, to include requirements for a minimum lot size of 20 acres in order to establish a farm winery/limited brewery/limited distillery in the R-A, R-P, R-E and R-1 Districts, subject to an allowance for any agricultural lot of five acres or more where there was a pending application for a license by the Alcoholic Beverage Control Board

as of the date of adoption of the amendment. The proposed definitions also identify the aforementioned limitations on the hosting of public or private events and activities at such facilities with regard to the number of attendees, frequency and duration that are permitted without special exception approval. A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 2.

REGULATORY IMPACT:

The proposed amendment will establish a new special exception process for the expansion of an existing farm winery, limited brewery, or limited distillery in the R-C District and for any new building or structure associated with a new farm winery, limited brewery, or limited distillery in the R-C District wherein the operator submitted a request for licensing of the establishment by the ABC Board by July 1, 2016. The changes do not require special exception approval for existing buildings, structures or uses thereof at a licensed farm winery/brewery/distillery as of July 1, 2016. Under the current regulations, such uses are permitted by right, so the proposed amendment will alter the regulatory process by which new farm wineries/breweries/distilleries can be established and existing operations can be expanded. The amendment also establishes a threshold for hosting public or private events and activities at any farm winery, limited brewery, or limited distillery, when such events and activities are not directly related to the tasting, sale and/or production of the licensed alcoholic beverages, and requires that any request for modification of those limits would require special exception approval. It is noted that there are only seven existing or proposed facilities in the R-C District that would be subject to the new special exception regulations, and, as of the date of publication of this report, there was only one additional facility (a proposed limited distillery) in the R-1 District that could potentially be subject the special exception process regarding the limits on events and festivals. As such, the regulatory impacts of this amendment are minimal, given the small number of facilities located or potentially locating in the County.

FISCAL IMPACT:

The proposed amendment will establish a new special exception application fee of \$8,180 for new or expanded farm wineries, limited breweries, or limited distilleries in the R-C District when the new or expanded building/structure/use result in more than 400 square feet of gross floor area and/or more than 2,500 square feet of disturbed area. A new special exception fee of \$4,090 is proposed for new or expanded buildings or structures of not more than 400 square feet of gross floor area and/or for land disturbances of not more than 2,500 square feet and/or for hosting public or private events and activities for more than 300 attendees more than once per month and/or for a duration for more than two days (with advertised flexibility in the frequency and duration). And, lastly, the amendment proposes a fee of \$1,000 for a special exception application for an agricultural building that does not permit access by the public (such as

Board Agenda Item
October 18, 2016

an equipment shed). Whereas there are no more than seven such establishments in the R-C District that could possibly utilize this special exception process, and staff is aware of only one pending application for a limited distillery in the R-1 District, staff does not anticipate any significant fiscal impacts associated with staff time for the review of such proposals.

ENCLOSED DOCUMENTS:

Attachment 1 – Resolution
Attachment 2 – Staff Report

STAFF:

Robert A. Stalzer, Deputy County Executive
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Leslie B. Johnson, Zoning Administrator, DPZ
Donna Pesto, Deputy Zoning Administrator for Ordinance Administration Branch, DPZ

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center Building, Fairfax, Virginia, on October 18, 2016, which meeting a quorum was present and the following resolution was adopted:

WHEREAS, the General Assembly of Virginia adopted changes to the *Code of Virginia* that became effective on July 1, 2016 regarding farm wineries, limited breweries and limited distilleries; and

WHEREAS, in order to comply with the changes to the *Code of Virginia*, the Zoning Ordinance requires changes to the provisions related to the Residential Conservation (R-C) District, the establishment of a new special exception use for farm wineries, limited breweries and limited distilleries in the R-C District and the addition of definitions of such uses; and

WHEREAS, the operation of a farm winery, limited brewery or limited distillery in the R-A, R-C, R-P, R-E and R-1 Districts, which allow agriculture as a permitted use, has the potential to cause impacts on surrounding areas that may be developed with low density residential uses. In order to mitigate the potential impacts of these uses, changes to the Zoning Ordinance are necessary to address the minimum lot size, maximum number of event/activity attendees and frequency of events/activities; and

WHEREAS, § 15.2-2286(A)(6) of the *Code of Virginia* provides for the collection of fees to cover the cost of making inspections, issuing permits, advertising of notices and other expenses incidental to the administration of a zoning ordinance or to the filing or processing of any appeal or amendment thereto; and

WHEREAS, the public necessity, convenience, general welfare, and good zoning practice require consideration of the proposed revisions to Chapter 112 (Zoning Ordinance) of the County Code.

NOW THEREFORE BE IT RESOLVED, for the foregoing reasons and as further set forth in the Staff Report, the Board of Supervisors authorizes the advertisement of the proposed Zoning Ordinance amendment as recommended by staff.

A Copy Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors



**FAIRFAX
COUNTY**

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

**Articles 3, 9, 18 and 20 Regarding Farm Wineries,
Limited Breweries, and Limited Distilleries**

PUBLIC HEARING DATES

Planning Commission

November 16, 2016 at 8:15 p.m.

Board of Supervisors

December 6, 2016 at 4:30 p.m.

**PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314**

October 18, 2016

DP



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

Background

The proposed amendment addresses the operation of a farm winery, limited brewery and/or limited distillery (farm winery/brewery/distillery) located in the Residential-Conservation (R-C) District, as such uses are specifically set forth in the Code of Virginia, and addresses the events and activities permitted at such establishments located in the Rural-Agricultural (R-A), Residential-Preservation (R-P), Residential-Estate (R-E) and Residential District, One Dwelling Unit/Acre (R-1) Districts. This amendment is limited in scope and is in specific response to changes made to the law during the 2016 Session of the General Assembly. Attachment 1 includes the definitions/descriptions of farm winery, limited brewery and limited distillery from the Code of Virginia. Under the 2016 changes to the Code of Virginia and the Acts of Assembly, a new farm winery/brewery/distillery may not be granted a license from the Virginia Alcoholic Beverage Control Board (ABC Board) for operation on any land zoned as a residential conservation district if the application for such license was submitted after July 1, 2016. In Fairfax County, the R-C District is the “residential conservation district” specified in these provisions. Additionally, any existing farm winery/ brewery/distillery already approved in a residential conservation district and any proposed farm winery/brewery/distillery in a residential conservation district with a pending application for licensure by the ABC Board prior to July 1, 2016 (and such license is ultimately approved) shall require special exception approval for any new or expanded building, structure or the uses thereof. This amendment will establish the necessary special exception process in the Zoning Ordinance for these farm winery/brewery/ distillery uses located in the R-C District and for certain events and activities at such establishments located in the R-A, R-P, R-E and R-1 Districts.

Staff notes that the 2016 Zoning Ordinance Amendment Work Program (ZOAWP) includes an item to address “agricultural districts and uses” as a Priority 1 item. This proposed amendment is one component of that ZOAWP item; however, staff envisions that a subsequent amendment will provide for a more comprehensive assessment of current and future farming/agriculture/ agritourism uses in the county, including the regulations related to activities and events that can be permitted in association with a farm to determine what, if any, additional regulations are needed to ensure compatibility with surrounding areas, the continued viability of agriculture and agritourism uses in the county, the protection of the health, safety and welfare of the public and other land use considerations. Such subsequent assessment will also consider uses such as pick-your-own farms, farm markets/wayside stands, seasonal public activities/events, public/community gardens, farming of a more industrial/business nature, urban agriculture, agriculture as a re-use of a building or property and other agriculture-related activities.

Farm Wineries/Breweries/Distilleries in Fairfax County

As of July 1, 2016, the date on which the changes to the Code of Virginia became effective, there were two licensed farm wineries operating in Fairfax County. Both of the current farm winery operations are located on land zoned R-C. Additionally, prior to July 1, 2016, application was

made by the prospective operators of three additional farm wineries and two limited brewery operations to be located on land that is also zoned R-C. Staff notes that each of the two existing farm winery operators are also the applicants for one new farm winery and one new limited brewery each, to be located on the existing farm winery sites or on an adjacent property. The other additional farm winery application is not affiliated with either of the currently operating farm wineries in the county. If these additional farm wineries and limited breweries are ultimately granted a license by the ABC Board, then they would be licensed to operate a farm winery in the R-C District, but any new or expanded buildings or structures associated with the use would require special exception approval. At the time of preparation of this amendment, the ABC Board had not taken action on any of the pending farm winery or limited brewery applications, so it is unknown if such licenses will be granted. Nevertheless, the proposed special exception for farm wineries/breweries/distilleries in the R-C District will effectively only ever impact these two existing or five potential operations countywide.

Code of Virginia

The Code of Virginia contains myriad references to agriculture, farming, wineries, breweries, distilleries and agritourism. Under the provisions of Title 15.2, Counties, Cities and Towns, Chapter 22 identifies the state laws regarding Planning, Subdivision of Land and Zoning. Section 15.2-2288.6(A) provides that no locality shall regulate the carrying out of an agritourism activity, unless there is a substantial impact on the health, safety, or general welfare of the public and any local restriction shall be reasonable and shall take into account the economic impact of the restriction. Agritourism activity is defined in Section 3.2-6400 of the Code of Virginia as:

Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities or other natural activities and attractions.

Additionally, Sections 15.2-2288.3, 15.2-2288.3:1 and 15.2-2288.3:2 provide that local restriction upon activities and events at licensed farm wineries/breweries/distilleries to market and sell their products shall be reasonable and take into account the economic impact of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such farm wineries/breweries/distilleries throughout the Commonwealth. As specified in the Code of Virginia, usual and customary activities and events shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public. These provisions further specify that no locality shall regulate any of the following activities of a licensed farm winery/brewery/distillery:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of licensed alcoholic beverages;
2. The on-premises sale, tasting, or consumption of licensed alcoholic beverages during regular business hours within the normal course of business of the licensed facility;
3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;

4. The sale and shipment of licensed alcoholic beverages to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;
5. The storage, warehousing, and wholesaling of licensed alcoholic beverages in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or
6. The sale of alcohol-related items that are incidental to the sale of licensed alcoholic beverages.

As such, it is outside the regulatory authority of the Zoning Ordinance to place limits on the activities addressed in the numbered paragraphs above, henceforth referred to as the normal operating characteristics of the farm winery/brewery/distillery. The Code of Virginia further prevents a locality from treating private personal gatherings held by the owner of the licensed farm winery/brewery/distillery who resides at the facility or on adjacent property differently from private personal gatherings by other citizens. Copies of the relevant provisions of the Code of Virginia are enclosed as Attachment 2.

Notwithstanding the above-referenced provisions of the Code of Virginia that restrict a locality's ability to regulate agricultural and agritourism uses, regardless of whether such activities are occurring in an agricultural district or classification, during the 2016 Session of the Virginia General Assembly, three separate bills were introduced and ultimately adopted that address the ABC Board licensing requirements for farm wineries/breweries/distilleries operating on a farm in the Commonwealth, set forth in Title 4.1, Alcoholic Beverage Control Act. The relevant 2016 bills are:

1. Farm Winery, which includes the manufacture of hard cider (ref. 2016 H879)
2. Limited Brewery operating on a farm (ref. 2016 S578)
3. Limited Distillery operating on a farm (ref 2016 S579)

Copies of the approved legislation are provided as Attachment 3. The relevant changes include that farm wineries/breweries/distilleries may be issued a license when such establishment is located on a farm on land zoned agricultural and that "land zoned agricultural" means "(1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for a farm winery use." The changes further specify that "land zoned agricultural" shall not include land zoned "residential conservation" and, as noted above, that any new building or structure or the expansion of an existing building, structure or the use thereof for any licensed or pending operation shall require approval of a special exception from the locality.

The new requirements, although they were codified in the provisions related to the limits on the Alcoholic Beverage Control licensing authority, effectively preclude the establishment of a new winery/brewery/distillery on a farm in the R-C District and require the approval of a special exception by the locality for an expansion of a building, structures and/or the uses thereof for the two existing farm wineries and for any establishment for which there was a pending application for a winery/brewery/distillery in the R-C District as of July 1, 2016. The proposed changes to the Zoning Ordinance are necessary in order to comply with the ABC Board licensing provisions enacted by the General Assembly that mandate a special exception process for farm wineries/breweries/distilleries in the R-C District.

Current Zoning Ordinance Provisions

The Zoning Ordinance currently allows agriculture as a permitted use in the Rural Agricultural (R-A), Residential-Preservation (R-P), Residential-Conservation (R-C), Residential Estate (R-E) and Residential District, One Dwelling Unit/Acre (R-1) Districts. Agriculture is defined in Article 20 of the Zoning Ordinance as:

AGRICULTURE: The use of a tract of land not less than five (5) acres in size for (a) the tilling of the soil; (b) the growing of crops, nursery stock, or plant growth of any kind, including forestry; (c) pasturage; (d) horticulture; (e) dairying; (f) floriculture; or (g) the raising of poultry and livestock; and (h) the wholesale sales of any of the foregoing products.

The term 'agriculture' shall not include the following uses: (a) the maintenance and operation of plant nurseries; (b) the feeding of garbage to animals; (c) the raising of fur-bearing animals as a principal use; (d) the operation or maintenance of a commercial stockyard or feed yard; (e) the retail sales of agricultural products except in accordance with the provisions of Sect. 10-102; or (f) the operation of landscape contracting services. However, the definition of agriculture shall not be deemed to preclude: (a) the keeping of livestock on parcels of two (2) acres or more in size as permitted by Sect. 2-512; or (b) gardening, as permitted as an accessory use in Sect. 10-102.

The Zoning Ordinance does not currently provide for farm wineries/breweries/distilleries as specific uses and, as such, does not currently require a special exception for any of these uses which are part of an agricultural operation in any district. Additionally, the Zoning Ordinance does not specifically define agritourism activities and events that would be allowed as accessory and in association with an agricultural use or with a farm winery/brewery/distillery. Staff notes that, while there are no provisions specifically addressing accessory uses associated with farm wineries/ breweries/distilleries, the current Zoning Ordinance does define accessory uses. By definition, an accessory use is a use or building that *(1) is clearly subordinate to, customarily found in association with, and serves the principal use; and (2) is subordinate in purpose, area or extent to the principal use served; and (3) contributes to the comfort, convenience or necessity of the occupants, business enterprise or industrial operation within the principal use served; and (4) is located on the same lot as the principal use, except that any building that is customarily incidental to any agricultural use shall be deemed to be an accessory use, whether or not it is situated on the same lot with the principal building.* Through this general definition of an accessory use and the associated regulations in Article 10 regarding specific accessory uses and their limitations, the Zoning Administrator can make case-by-case determinations as to the “accessory” nature of a proposed use or building.

In light of the applicable provisions of the Code of Virginia and the Zoning Ordinance, it is current practice to permit agriculture by-right on lots of five or more acres in the R-A, R-P, R-C, R-E and R-1 Districts and to allow agritourism uses, such as farm wineries and seasonal activities/events/festivals, as accessory uses to the principal use of agriculture in those districts.

Proposed Amendment

The proposed amendment does not seek to establish limitations on the normal operating characteristics of a farm winery/brewery/distillery, as such characteristics, including tasting, sales and production, are set forth in the Code of Virginia and are specifically excluded from local regulation. The amendment will, however:

- Modify the definition of agriculture and create new definitions for a farm winery, limited brewery, and limited distillery to specifically identify such uses in relation to the ABC Board regulations and establish certain limits on events and activities associated with such uses
- Preclude the establishment of any future farm winery/brewery/distillery in the R-C District, unless such establishment had a pending ABC Board license as of July 1, 2016 and such license is ultimately approved
- Create a new special exception for any new or expanded buildings, structures or the use thereof for the existing and pending farm winery/brewery/distillery operations in the R-C District, which have an approved or pending ABC license application prior to July 1, 2016, and for certain events and activities at a farm winery/brewery/distillery in the R-A, R-P, R-E and R-1 Districts, with an appropriate application fee for the special exception

Proposed Definitions

With regard to the proposed definitions of farm winery, limited brewery, and limited distillery, staff is recommending that the Zoning Ordinance include a general description of each of these uses and the inclusion of a reference to the Code of Virginia provisions for further description. Staff notes that the Code of Virginia makes multiple references to the term “farm” however, such term is not defined by the Zoning Ordinance. Staff is proposing to include within the definition of each of these uses, a reference to the term “farm” and a qualifier that, for the purposes of establishing any future farm winery/brewery/distillery, such “farm” must consist of an area of contiguous land containing not less than twenty acres under common ownership when such land is principally used for agriculture. At the time of publication of the staff report, staff was aware of one pending ABC Board license application for the operation of a farm winery/brewery/distillery in a zoning district other than R-C. That proposal is for a limited distillery on a parcel of approximately 12.7 acres zoned R-1 and located in the Mount Vernon District. The amendment includes a provision that would allow a farm winery/brewery/distillery on a lot of five acres or more (other than in the R-C District) when the lot is primarily used for agriculture and the property was subject to a pending application for an ABC Board license as of the date of adoption of this amendment. This provision would accommodate the known limited distillery application and any other farm winery/brewery/distillery (other than in the R-C District) that meets the current five acre minimum lot size, but would not meet the proposed twenty acre minimum lot size, subject to the approval of the pending ABC Board license. Subsequent to adoption of this amendment, any new ABC Board license application for a farm winery/brewery/distillery in any district would require a minimum lot size of twenty acres. *(NOTE: Staff notes that, within the scope of the*

advertisement, the Board can consider any minimum acreage requirement from the current five acre required for an agricultural use up to fifty acres.)

Staff recommends a twenty acre minimum lot size in consideration of the potential impacts of such uses on adjacent and nearby properties. Additionally, staff notes that in order to participate in the County's local Agricultural and Forestal (A&F) District Program, there is a minimum lot size of twenty acres, which requirement cannot be waived. And lastly, as noted previously, the amendment proposes a "grandfathering" allowance for a lot less than twenty acres for a proposed farm winery/brewery/distillery operation with a pending ABC Board license application as of the date of adoption of this amendment, provided such lot meets the minimum acreage requirement for an agricultural use. The amendment does not propose an increase in the minimum required lot area of five acres to establish an agricultural use, but rather, proposes a minimum lot area of twenty acres if an agricultural lot is intended to be used for a farm winery/ brewery/distillery.

Also included in the definition of farm winery, limited brewery, and limited distillery is the threshold for the size and duration of public or private events and activities that can occur at such establishments as a permitted use. Events and activities over this threshold would require special exception approval. Based on information obtained from the operators of the two existing wineries in the County and a review of the event facilities offered by other wineries in Virginia, it appears events and activities not directly related to the tasting, marketing and sale of the licensed alcoholic beverages, such as weddings and corporate events, typically accommodate seating space for 200 attendees, plus additional area for dancing. Because the provisions adopted by the General Assembly require Fairfax County to establish a special exception for an expansion of buildings, structures or the **uses thereof**, it is necessary to establish a threshold limit on the current operations at the two existing wineries in order to make a determination as to what constitutes an expansion of the use of existing buildings and structures. Staff is proposing a 300 person limit for public or private events and activities, and permits one event per month for a duration of not more than two days for more than 300 attendees as part of the farm winery/brewery/distillery use. Any event or activity that would provide for more than 300 people, more than once a month for a duration of more than two days would require approval of a special exception. Staff believes this accommodates the current operating characteristics of the existing wineries, which were developed by-right as agriculture and agritourism uses, and establishes an appropriate threshold for determining what would constitute an expansion of the use. *(NOTE: the amendment is advertised to allow the Board to consider any number of attendees from 150 to 500, the number of events per month from 1 to 4 and the duration from 2 to 8 days, with staff recommending 300 people, 1 event/month for a duration of not more than 2 days.)*

Proposed Special Exception Provisions

Staff is proposing to create a new Category 6 Special Exception Use, for an "Expansion of an existing or development of a new farm winery, limited brewery, and limited distillery in the R-C District and for certain events and activities associated with such uses when located in the R-A, R-P, R-E and R-I Districts" and to establish the appropriate limitations for such expansions in a new Sect. 9-630.

With regard to such uses in the R-C District, staff is proposing the following limitations:

- Special exception approval shall not be required for the existing buildings and structures or the uses thereof (as of July 1, 2016) at the two existing farm wineries.
- Special exception approval shall be required for and subject to:
 - Any new building or structure or the uses thereof and for the addition to or structural alteration of any existing building or structure
 - Public or private events not specifically allowed under the definitions, with prohibitions on helicopter rides, fireworks displays, antique/flea markets, go-cart/all-terrain vehicle tracks, mechanized amusement rides, hot air balloons, lodging, spa services, the operation of a commercial restaurant and/or any other similar use determined by the Zoning Administrator to have a substantial impact on the health, safety and welfare of the public.
 - Minimum building and loading/unloading area setbacks of 50 feet from lot lines and 100 feet from principal structures on adjacent properties.
 - The Board must make a finding that the proposal is in harmony with the policies in the comprehensive plan and provides for mitigation of potential impacts of any such expansion
 - Submission of a copy of the issued or pending license from the ABC Board and certified plans prepared by a structural engineer.

With regard to such uses in the R-A, R-P, R-E or R-1 Districts, staff is proposing the following limitations:

- Public or private events in excess of that which is specifically allowed under the definitions, with prohibitions on helicopter rides, fireworks displays, antique/flea markets, go-cart/all-terrain vehicle tracks, mechanized amusement rides, hot air balloons, lodging, spa services, the operation of a commercial restaurant and/or any other similar uses determined by the Zoning Administrator to have a substantial impact on the health, safety and welfare of the public.
- The Board must make a finding that the proposal is in harmony with the policies in the comprehensive plan and provides for mitigation of potential impacts of any such expansion

Staff recognizes the valuable contributions that farm winery/brewery/distillery uses can have on the agritourism economy of the county. It is also recognized that there can be land use impacts associated with these agricultural/production/tourism uses when located in low density rural areas. Staff believes a balance of these interests is critical. In order to determine what constitutes an expansion of the two existing winery operations, it is necessary to establish a benchmark of buildings, structures and uses thereof. Since agricultural related buildings do not require a building permit, site plan or other approvals, staff has worked with the property owners to catalogue the buildings, structures and uses thereof for the two existing farm winery properties. Staff will create a property record of the existing conditions at the two operating wineries to be used for making a determination as to what constitutes an expansion of buildings, structures and the uses thereof.

With regard to the public or private activities and events currently conducted at the two existing wineries that are not considered part of the tastings, sales and production characteristics of the wine-making facility, information provided by the operators and on the respective websites indicate that activities and events include the hosting of weddings and other celebrations, live

music events, hosting of corporate and other business events/training, hosting of activities including sports/games (bocce), art (paint night), history and fitness activities (yoga/meditation), and seasonal activities and events, among others. In terms of the scale of events, the winery operators have indicated that the largest of these events could potentially have up to 350 attendees. As noted, in order to accommodate the current events and activities occurring at the two existing farm wineries, staff is proposing that any event or activity for up to 300 people and only one event or activity per month for more than 300 people one time per month for a duration of not more than two days would be permitted without special exception approval in the R-C District and by-right in the R-A, R-E, R-P and R-1 Districts. Additionally, regardless of the zoning district in which the farm winery/brewery/distillery is located, any increase in the number of events or activities for more than 300 attendees or the duration of such activities will require approval of a special exception, except that special exception approval shall not be required for the continuation of uses in the R-C District in existence on July 1, 2016. *(NOTE: as noted previously, the amendment is advertised to allow the Board to adopt any maximum number of permitted event/activity attendees between 150 and 500, with staff recommending a 300 person maximum. The amendment advertisement also includes flexibility for the Board to consider in the frequency and duration of the events/activities.)*

Application Fees

Pursuant to authority granted by Code of Virginia Section 15.2-2286(A)(6) the amendment proposes an application fee of \$8,180 for a Category 6 Special Exception to permit the expansion of an existing farm winery when the new construction includes more than 400 square feet of gross floor area and/or more than 2,500 square feet of disturbed area and also for the establishment of a new farm winery/brewery/distillery in the R-C District, limited to those operations with a pending ABC Board license as of July 1, 2016 (when such license is ultimately approved.) For any such construction in the R-C District that includes not more than 400 square feet of gross floor area and/or not more than 2,500 square feet of disturbed area, staff is recommending one half of that fee, or \$4,090. For all farm winery/brewery/distillery uses in the R-A, R-C, R-P, R-E and R-1 Districts, when the applicant requests modifications to limitations on the events and activities set forth in the definitions, staff is also proposing an application fee of \$4,090. And, lastly, for any agricultural structure that does not permit access by the public, guests and/or any attendees at a public or private event or activity, staff is proposing an application fee of \$1,000.

Staff believes that the proposed \$8,180 fee is consistent with the fee structure for other special permit or special exception uses that would require a similar depth of review, such as the current \$8,180 fee for riding and boarding stables, shape factor modifications and yard reductions for lots other than single family. The recommendation for a lower application fee, \$4,090, for a small addition or new building/structure, limited land disturbance and for the modification of the limits associated with events/activities recognizes that agricultural operations may require some additional buildings, of a smaller scale, that are needed to conduct the farming operations and do not necessarily increase the operating capacity of the farm winery/brewery/distillery. Additionally, staff believes that even if the additional floor area is to accommodate additional visitors, the 400 square foot size limit would have a lesser impact on the overall operation of the facility. Regarding the modifications on the limits on events/activities, such review will not include new

buildings or structures, so staff supports the proposed lower application fee for these types of requests, as well.

For structures that are purely agricultural in nature, such as a farm equipment building, tractor shed, barn for animals and similar structure that provide for absolutely no access by the public, whether patrons of the winery/brewery/distillery, guests of the operators and/or attendees at a public or private event or activity, staff is proposing an application fee of \$1,000. Staff notes that, prior to the amendment to the State Code regarding farm wineries/breweries/distilleries in the R-C District, there would be no requirement for a special exception for these structures and, in fact, there would be no requirement for site plan, building permit or any of the trade permits for the agriculture structure as such uses and buildings are exempt from the requirements of the Building Code. Such uses should involve less staff time for review and processing because they would not generate additional visitors to the farm winery/brewery/distillery and therefore should not result in a significant impact on the nearby properties. As such, staff believes a lower fee is appropriate.

(Note: the amendment has been advertised to allow the Board to consider any fee for structures/disturbances/modifications for events and activities between \$1,000 and \$16,375, to include the establishment for additional pricing levels for different sized structures and/or land disturbances.)

Conclusion

The proposed amendment specifically addresses changes made to the Code of Virginia regarding the operation of farm wineries/breweries/distilleries in the R-C District and establishes limitations on the operation of such uses in other districts that allow agriculture as a permitted use. Staff recommends approval of the proposed amendment with an effective date of 12:01 a.m. on the day following adoption, to include staff's recommendation that any proposed operation with a pending application for licensure by the ABC Board for the operation of a farm winery/brewery/ distillery in the R-A, R-P, R-E and R-1 Districts shall be subject to the current five acre minimum lot size requirement, provided such application is ultimately approved.

Attachments:

- Attachment 1 – Code of Virginia Section Re: Farm Winery/Brewery/Distillery
- Attachment 2 – Code of Virginia Sections Re: to Agriculture, ABC Board, Agritourism
- Attachment 3 – 2016 General Assembly Bills Re: Farm Winery/Brewery/Distillery

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of October 18, 2016 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, as other amendments may be adopted prior to action on this amendment. In the case of such an event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

1 **Amend Article 3, Residential District Regulations, by amending Part C, R-C Residential**
 2 **Conservation District, as follows:**

3
 4 - **Amend Sect. 3-C02, Permitted Uses, by amending Par. 2, as follows:**

- 5
 6 2. Agriculture, as defined in Article 20, but not to include a limited brewery, limited
 7 distillery, or a farm winery that was not licensed by the state and operational prior to
 8 July 1, 2016; provided, however, that the expansion of existing structures, buildings
 9 and/or uses and construction of new buildings or structures associated with any state-
 10 licensed farm winery in operation before July 1, 2016 shall be subject to the
 11 provisions of Part 6 of Article 9. The development, including construction of new
 12 buildings or structures, of any new farm winery, limited brewery, or limited distillery
 13 pursuant to a state license that was pending before July 1, 2016, which license must
 14 be issued before a special exception may be approved, shall also be subject to the
 15 provisions of Part 6 of Article 9.

16
 17
 18 **Amend Article 9, Special Exceptions, as follows:**

19
 20 - **Amend Part 6, Category 6 Miscellaneous Provisions Requiring Board of Supervisors'**
 21 **Approval, as follows:**

22
 23 - **Amend Sect. 9-601, Category 6 Special Exception Uses, by adding a new Par. 27, as**
 24 **follows:**

25
 26 Category 6 special exceptions consist of those miscellaneous provisions set forth in
 27 various Articles of this Ordinance, which require special approval or authorization from
 28 the Board.

- 29
 30 27. Expansion of an existing or development of a new farm winery, limited brewery, and
 31 limited distillery in the R-C District and for certain events and activities associated
 32 with such uses when located in the R-A, R-P, R-E and R-1 Districts.
 33

- 1 - Establish a new Sect. 9-630, Provisions for the Expansion of an Existing or
2 Development of a New Farm Winery, Brewery or Distillery in the R-C District and
3 for Certain Events and Activities Associated with Such Uses When Located in the
4 R-A, R-P, R-E and R-1 Districts, as follows:

5
6 **9-630 Provisions for Expansion of an Existing or Development of a New Farm**
7 **Winery, Limited Brewery, or Limited Distillery in the R-C District and for**
8 **Certain Events and Activities Associated with Such Uses When Located in**
9 **the R-A, R-P, R-E and R-1 Districts**

- 10
11 1. In the R-C District, the Board may approve a special exception to allow for
12 the expansion or development of a farm winery, limited brewery, or limited
13 distillery. For the purposes of this provision, a farm winery, limited brewery,
14 or limited distillery located in the R-C District shall only include (1) any
15 establishment that was issued a valid license for such use from the Virginia
16 Alcoholic Beverage Control Board prior to July 1, 2016, and (2) any such
17 establishment for which a license application was filed with the Virginia
18 Alcoholic Beverage Control Board prior to July 1, 2016 and was subsequently
19 approved prior to approval of a special exception. An expansion or
20 development shall include new or expanded buildings, structures and uses that
21 may be approved by special exception in accordance with the following:
22
23 A. Special exception approval shall not be required for the continuation, after
24 July 1, 2016, of then existing uses of buildings and structures, provided
25 that such use or activity does not cease for any reason for a continuous
26 period of two (2) years or more.
27
28 B. Special exception approval shall be required for the expansion after July 1,
29 2016, of any existing buildings or structures or the uses thereof, as
30 determined by the Zoning Administrator and as provided for in Par. 2 of
31 Sect. 15-101 or the structural alteration of any existing building or
32 structure that results in the expansion of such building or structure or the
33 uses thereof. Special exception approval shall also be required for any
34 new building or structure.
35
36 C. For public or private events and activities which exceed the number of
37 attendees, frequency or duration as set forth under the definition of a farm
38 winery, limited brewery, or limited distillery, if not otherwise permitted
39 under Par. 1A, above, the Board may impose conditions on such events
40 and activities, including, but not limited to: the type and number of
41 allowable activities; the area of the site devoted to such activities; the
42 adequacy of water and sanitation services to accommodate the anticipated
43 number of attendees; the days and hours of such activities; the use of
44 lighting or amplified sound systems; and the amount of parking available
45 to accommodate the activity. Any such events and activities shall be
46 subject to compliance with the noise standards set forth in Chapter 108.1

of The Code and the outdoor lighting standards set forth in Article 14 of this Ordinance. No such public or private event or activities shall include any of the following: helicopter rides, fireworks displays, antique/flea markets, go-cart/all-terrain vehicle tracks, mechanized amusement park rides, hot air balloons, lodging, spa services, the operation of a commercial restaurant requiring approval by the Health Department and/or any other similar use determined by the Board to have a substantial impact on the health, safety and welfare of the public.

D. An expansion may be approved only when it is determined by the Board that the resulting use, buildings and/or structures will be in harmony with the policies set forth in the adopted comprehensive plan and where the resultant operation will not have a deleterious effect on the existing or planned development of adjacent properties or on area roadways. The applicant shall demonstrate to the Board's satisfaction that any potential impacts of an expansion of buildings or uses, including, without limitation, the hosting of public or private events not specifically allowed under the definition of farm winery, limited brewery, or limited distillery shall be adequately mitigated.

E. Any expansion of an existing building or structure, the construction of a new building or structure or the establishment or expansion of any area for the loading/unloading of trucks shall be located at least fifty (50) feet to any lot line and one hundred (100) feet to any principal structure on adjacent properties, unless modified by the Board. All loading/unloading areas shall be screened from view of any adjacent dwelling.

F. Any application for a special exception shall include a copy of the farm winery, limited brewery, or limited distillery license issued or pending issuance by the Virginia Alcoholic Beverage Control Board.

G. For any new or expanded buildings or structures which would allow for access by the public, the owner or applicant shall submit plans certified by a structural engineer and such structural engineer shall also certify to the structural integrity of the building, once such construction is complete. Such certified plans shall be made available for review upon request.

H. The operation and construction of a farm winery, limited brewery or limited distillery shall be further subject to all other applicable federal, state or local statutes, ordinances, rules or regulations, which may include, without limitation, the Chesapeake Bay Preservation Act, the Stormwater Management Act, and the Americans With Disabilities Act.

2. In the R-A, R-P, R-E and R-1 Districts the Board may approve a special exception to allow for the hosting of certain events and activities beyond that

1 which is specified in the definitions of a farm winery, limited brewery, or
2 limited distillery in accordance with the following:

3
4 A. For public or private events and activities which exceed the number of
5 attendees, frequency or duration as set forth under the definition of a farm
6 winery, limited brewery, or limited distillery, the Board may impose
7 conditions on such events and activities, including, but not limited to: the
8 type and number of allowable activities; the area of the site devoted to
9 such activities; the adequacy of water and sanitation services to
10 accommodate the anticipated number of attendees; the days and hours of
11 such activities; the use of lighting or amplified sound systems; and the
12 amount of parking available to accommodate the activity. Any such
13 events and activities shall be subject to compliance with the noise
14 standards set forth in Chapter 108.1 of The Code and the outdoor lighting
15 standards set forth in Article 14 of this Ordinance. No such public or
16 private event or activities shall include any of the following: helicopter
17 rides, fireworks displays, antique/flea markets, go-cart/all-terrain vehicle
18 tracks, mechanized amusement park rides, hot air balloons, lodging, spa
19 services, the operation of a commercial restaurant requiring approval by
20 the Health Department and/or any other similar use determined by the
21 Board to have a substantial impact on the health, safety and welfare of the
22 public.

23
24 B. A special exception may be approved only when it is determined by the
25 Board that the proposed events and activities will be in harmony with the
26 policies set forth in the adopted comprehensive plan and where the
27 resultant operation will not have a deleterious effect on the existing or
28 planned development of adjacent properties or on area roadways. The
29 applicant shall demonstrate to the Board's satisfaction that any potential
30 impacts of the hosting of public or private events not specifically allowed
31 under the definition of farm winery, limited brewery, or limited distillery
32 shall be adequately mitigated. Any application for a special exception
33 shall include a copy of the farm winery, limited brewery, or limited
34 distillery license issued or pending issuance by the Virginia Alcoholic
35 Beverage Control Board.

36
37 C. Any application for a special exception shall include a copy of the farm
38 winery, limited brewery, or limited distillery license issued or pending
39 issuance by the Virginia Alcoholic Beverage Control Board.

40
41 D. The operation and construction of a farm winery, limited brewery, or
42 limited distillery shall be further subject to all other applicable federal,
43 state or local statutes, ordinances, rules or regulations, which may include
44 without limitation, the Chesapeake Bay Preservation Act, the Stormwater
45 Management Act, and the Americans With Disabilities Act.
46

Amend Article 18, Administration, Amendments, Violations and Penalties, by amending Part 1, Administration, Section 18-106, Application and Zoning Compliance Letter Fees, to add Farm Wineries, Limited Breweries and Limited Distilleries to the Category 6 special exception application fee, as follows:

Category 6 special exception

Reduction of yard requirements for the reconsideration of certain single family detached dwellings that are destroyed by casualty \$0

Modification of minimum yard requirements for certain existing structures and uses; modification of grade for single family detached dwellings \$910

Expansion of an existing or establishment of a new farm winery, limited brewery, or limited distillery in an R-C District for any agricultural building or structure that does not permit access by any member of the public, whether a customer, guest, or attendee at a public or private event or activity \$1000

Expansion of an existing or establishment of a new farm winery, limited brewery, or limited distillery in an R-C District with no construction of buildings or structures over 400 square feet in gross floor area or no land disturbance over 2,500 square feet; or modification of the number of attendees, frequency and/or duration of events or activities at a farm winery, limited brewery or limited distillery in the R-A, R-P, R-C R-E and R-1 District \$4090

Modification of shape factor limitations; waiver of minimum lot width requirements in a residential district; expansion of an existing or establishment of a new farm winery, limited brewery, or limited distillery in an R-C District with construction of buildings or structures over 400 square feet in gross floor area or land disturbance over 2,500 square feet \$8180

All other uses \$16375

(Note: the amendment is advertised to allow the Board to consider any application fee from \$1,000 to \$16,375, with staff recommending \$1,000 for agricultural buildings that do not allow access by the public, \$4,090 for smaller buildings/uses and events/activities and \$8,180 for larger buildings/uses, to include the ability to establish additional fee tiers for different size structures and/or land disturbances.)

1 Amend Article 20, Ordinance Structure, Interpretations and Definitions, by amending Part
 2 3, Definitions, to modify the definition of AGRICULTURE and to add FARM WINERY,
 3 LIMITED BREWERY, and LIMITED DISTILLERY in alphabetical order, as follows:

4 5 20-300 DEFINITIONS

6 The following definitions shall be used in the interpretation and administration of this
 7 Ordinance. The definitions of various terms as presented herein do not necessarily represent
 8 the same definitions as may be found for the same terms in other Chapters of The Code.
 9

10 AGRICULTURE: The use of a farm or other tract of land not less than five (5) acres in size
 11 as a business engaged in the production of crops, nursery stock or plant growth of any kind
 12 and/or the raising of livestock, aquatic life or other animals to produce products such as food
 13 and fiber and the wholesale sale of the foregoing plant and animal products. Agriculture may
 14 also include the operation of agritourism uses, as set forth in the Code of Virginia, and a
 15 licensed farm winery, limited brewery or limited distillery, but only as those uses are defined
 16 in this Ordinance and only in accordance with the provisions of Part 6 of Article 9, when a
 17 special exception is required. for (a) the tilling of the soil; (b) the growing of crops, nursery
 18 stock, or plant growth of any kind, including forestry; (c) pasturage; (d) horticulture; (e)
 19 dairying; (f) floriculture; or (g) the raising of poultry and livestock; and (h) the wholesale
 20 sales of any of the foregoing products.

21 The term 'agriculture' shall not include the following uses: (a) the maintenance and
 22 operation of plant nurseries; (b) ~~the feeding of garbage to animals; (c) the raising of fur-~~
 23 ~~bearing animals as a principal use; (d) the operation or maintenance of a commercial~~
 24 ~~stockyard or feed yard; (e c) the retail sales of agricultural products except in accordance~~
 25 ~~with the provisions of Sect. 10-102 as an accessory use; or (f d) the operation of landscape~~
 26 ~~contracting services. However, the definition of agriculture shall not be deemed to preclude:~~
 27 ~~(a) the keeping of livestock on parcels of two (2) acres or more in size as permitted by Sect.~~
 28 ~~2-512; or (b) gardening, as permitted as an accessory use in Sect. 10-102.~~
 29

30 FARM WINERY: An establishment located on a farm with a producing vineyard, orchard or
 31 similar growing area and with facilities for fermenting and bottling wine and/or cider on the
 32 premises, and as specifically regulated and licensed by the provisions of the Virginia
 33 Alcoholic Beverage Control Board (ABC Board). For the purpose of this definition, a farm
 34 shall be deemed to be an area of contiguous land containing not less than twenty (20)
 35 (advertised at 5-50) acres under common ownership wherein such land is used for
 36 AGRICULTURE or any lot not less than five (5) acres in size for which an ABC Board
 37 license was pending for the operation of a farm winery before [effective date of this
 38 amendment] where such license is ultimately approved and such land is used for
 39 AGRICULTURE. Any such establishment in operation prior to July 1, 2016, may continue
 40 its then existing or more restricted uses; however, the construction or expansion after July 1,
 41 2016, of any new or existing farm winery building or structure in the R-C District shall be
 42 subject to the provisions of Part 6 of Article 9. Where permitted and to the extent authorized
 43 by this Ordinance, any new farm winery building or structure constructed after July 1, 2016,
 44 or the expansion of any farm winery building or structure after July 1, 2016, may be used for
 45 alcohol production, sales and tastings and, in addition, for the hosting of public or private
 46 events or activities for up to 300 (advertised at 150-500) guests, invitees or participants;

1 however, events or activities for more than 300 (advertised at 150-500) guests, invitees or
 2 participants shall be limited to one (1) (advertised at 1-4) per calendar month and shall not
 3 exceed two (2) (advertised at 2-8) days in duration, unless a special exception is approved by
 4 the Board.

5
 6
 7 LIMITED BREWERY: An establishment located on a farm wherein agricultural products,
 8 including barley, hops, other grains and/or fruit used by such limited brewery in the
 9 manufacture of beer are grown, processed and containerized on the premises, and as
 10 specifically regulated and licensed by the provisions of the Virginia Alcoholic Beverage
 11 Control Board (ABC Board). For the purpose of this definition, a farm shall be deemed to be
 12 an area of contiguous land containing not less than twenty (20) (advertised at 5-50) acres
 13 under common ownership wherein such land is used for AGRICULTURE or any lot of five
 14 (5) acres or more for which an ABC Board license was pending for the operation of a limited
 15 brewery before [effective date of this amendment] where such license is ultimately approved
 16 and such land is used for AGRICULTURE. Where permitted and to the extent authorized by
 17 this Ordinance, any new or expanded limited brewery building or structure constructed after
 18 July 1, 2016, may be used for alcohol production, sales and tastings. In addition to such
 19 production, sales and tastings, any limited brewery building or structure may be used for the
 20 hosting of public or private events or activities for up to 300 (advertised at 150-500) guests,
 21 invitees or participants; however, events or activities for more than 300 (advertised at 150-
 22 500) guests, invitees or participants shall be limited to one (1) (advertised at 1-4) per
 23 calendar month and shall not exceed two (2) (advertised at 2-8) days in duration, unless a
 24 special exception is approved by the Board.

25
 26
 27 LIMITED DISTILLERY: An establishment located on a farm wherein agricultural products
 28 used in the manufacture of alcoholic beverages other than wine, cider and beer are grown,
 29 processed and containerized on the premises, and as specifically regulated and licensed by
 30 the provisions of the Virginia Alcoholic Beverage Control Board (ABC Board). For the
 31 purpose of this definition, a farm shall be deemed to be an area of contiguous land containing
 32 not less than twenty (20) acres under common ownership wherein such land is used for
 33 AGRICULTURE or any lot of five acres or more for which an ABC Board license was
 34 pending for the operation of a limited distillery before [effective date of this amendment]
 35 where such license is ultimately approved and such land is used for AGRICULTURE.
 36 Where permitted and to the extent authorized by this Ordinance, any new or expanded
 37 limited distillery building or structure constructed after July 1, 2016, may be used for alcohol
 38 production, sales and tastings. In addition to such production, sales and tastings, any limited
 39 distillery building or structure may be used for the hosting of public or private events or
 40 activities for up to 300 (advertised at 150-500) guests, invitees or participants; however,
 41 events or activities for more than 300 (advertised at 150-500) guests, invitees or participants
 42 shall be limited to one (1) (advertised at 1-4) per calendar month and shall not exceed two
 43 (2) (advertised at 2-8) days in duration, unless a special exception is approved by the Board.

ATTACHMENT 1

VIRGINIA CODE

Title 4.1 – Alcoholic Beverage Control Act, Chapter 2 – Administration of Licenses

Section 4.1-206 – Alcoholic beverage licenses

Section 4.1-207 – Wine licenses

Section 4.1-208 – Beer licenses

Section 4.1-213 – Manufacture and sale of cider

Code of Virginia
Title 4.1. Alcoholic Beverage Control Act
Chapter 2. Administration of Licenses

§ 4.1-206. Alcoholic beverage licenses.

A. The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that manufacture not more than 36,000 gallons of alcoholic beverages other than wine or beer per calendar year, provided (i) the distillery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) agricultural products used by such distillery in the manufacture of its alcoholic beverages are grown on the farm. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station

or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to

the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than

two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.

B. Any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with this title and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this title and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

Code 1950, § 4-25; 1952, c. 535; 1956, c. 520; 1962, c. 532; 1964, c. 210; 1970, cc. 627, 723; 1972, c. 679; 1973, c. 343; 1974, c. 267; 1975, c. 408; 1976, cc. 134, 447, 496, 703; 1977, c. 439; 1978, c. 190; 1979, c. 258; 1980, cc. 526, 528; 1981, cc. 410, 412; 1982, c. 66; 1984, c. 200; 1987, c. 365; 1988, c. 893; 1989, c. 42; 1990, c. 707; 1991, c. 628; 1992, cc. 215, 350; 1993, c. 866; 1996, cc. 584, 596; 1998, c. 489; 1999, c. 325; 2005, c. 911; 2006, cc. 737, 826; 2007, c. 101; 2008, c. 198; 2013, c. 476; 2014, c. 510; 2015, cc. 348, 393, 412, 502, 503, 695; 2016, c. 644.

Code of Virginia
Title 4.1. Alcoholic Beverage Control Act
Chapter 2. Administration of Licenses

§ 4.1-207. Wine licenses.

The Board may grant the following licenses relating to wine:

1. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board.

2. Wholesale wine licenses, including those granted pursuant to § 4.1-207.1, which shall authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from one or more premises identified in the license, in accordance with Board regulations, in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state.

No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's license.

3. Wine importers' licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Retail off-premises winery licenses to persons holding winery licenses, which shall authorize the licensee to sell wine at the place of business designated in the winery license, in closed containers, for off-premises consumption.

5. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this title, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility.

Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises consumption at these business places.

6. Internet wine retailer license, which shall authorize persons located within or outside the Commonwealth to sell and ship wine, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

Code 1950, § 4-25; 1952, c. 535; 1956, c. 520; 1962, c. 532; 1964, c. 210; 1970, cc. 627, 723; 1972, c. 679; 1973, c. 343; 1974, c. 267; 1975, c. 408; 1976, cc. 134, 447, 496, 703; 1977, c. 439; 1978, c. 190; 1979, c. 258; 1980, cc. 324, 526, 528, § 4-25.1; 1981, cc. 410, 412; 1982, c. 66; 1984, cc. 200, 559; 1985, c. 457; 1986, c. 190; 1987, c. 365; 1988, c. 893; 1989, c. 42; 1990, cc. 300, 390, 707, 810; 1991, c. 628; 1992, cc. 215, 350; 1993, c. 866; 1998, cc. 77, 208; 2000, cc. 786, 1037, 1052; 2003, cc. 564, 629, 1029, 1030; 2006, c. 845; 2007, cc. 558, 870, 932; 2008, c. 194; 2013, cc. 107, 117, 596; 2015, cc. 54, 288, 412.

Code of Virginia
Title 4.1. Alcoholic Beverage Control Act
Chapter 2. Administration of Licenses

§ 4.1-208. Beer licenses.

A. The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a company under common control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common control of such brewery contiguous to such premises, or in a development contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the brewery license for on-premises consumption and in closed containers for off-premises consumption.

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises, provided that such samples shall be provided only to individuals for consumption on the premises of such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board

may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

5. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

6. Retail on-premises beer licenses to:

a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. For purposes of this

subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-premises consumption when carrying passengers.

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers.

d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments. No license shall be granted unless it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the licensee to sell beer, in paper, plastic, or similar disposable containers, during the performance of professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta, Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell beer during the event, in paper, plastic or similar

disposable containers to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition halls" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed containers for off-premises consumption.

8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize the licensee to sell beer at the place of business designated in the brewery license, in closed containers which shall include growlers and other reusable containers, for off-premises consumption.

9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall authorize the licensee to sell beer in closed containers for off-premises consumption.

B. Any farm winery or limited brewery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with this title and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for farm winery or limited brewery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the farm winery or limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this title and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the farm winery or limited brewery on or after July 1, 2016.

Code 1950, § 4-25; 1952, c. 535; 1956, c. 520; 1962, c. 532; 1964, c. 210; 1970, cc. 627, 723; 1972, c. 679; 1973, c. 343; 1974, c. 267; 1975, c. 408; 1976, cc. 134, 447, 496, 703; 1977, c. 439; 1978, c. 190; 1979, c. 258; 1980, cc. 526, 528; 1981, cc. 410, 412; 1982, c. 66; 1984, c.

Code of Virginia
 Title 4.1. Alcoholic Beverage Control Act
 Chapter 2. Administration of Licenses

§ 4.1-213. Manufacture and sale of cider.

A. Any winery licensee or farm winery licensee may manufacture and sell cider to (i) the Board, (ii) any wholesale wine licensee, and (iii) persons outside the Commonwealth.

B. Any wholesale wine licensee may acquire and receive shipments of cider, and sell and deliver and ship the cider in accordance with Board regulations to (i) the Board, (ii) any wholesale wine licensee, (iii) any retail licensee approved by the Board for the purpose of selling cider, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

C. Any licensee authorized to sell alcoholic beverages at retail may sell cider in the same manner and to the same persons, and subject to the same limitations and conditions, as such license authorizes him to sell other alcoholic beverages.

D. Cider containing less than seven percent of alcohol by volume may be sold in any containers that comply with federal regulations for wine or beer, provided such containers are labeled in accordance with Board regulations. Cider containing seven percent or more of alcohol by volume may be sold in any containers that comply with federal regulations for wine, provided such containers are labeled in accordance with Board regulations.

E. No additional license fees shall be charged for the privilege of handling cider.

F. The Board shall collect such markup as it deems appropriate on all cider manufactured or sold, or both, in the Commonwealth.

G. The Board shall adopt regulations relating to the manufacture, possession, transportation and sale of cider as it deems necessary to prevent any unlawful manufacture, possession, transportation or sale of cider and to ensure that the markup required to be paid will be collected.

H. For the purposes of this section:

"Chaptalization" means a method of increasing the alcohol in a wine by adding sugar to the must before or during fermentation.

"Cider" means any beverage, carbonated or otherwise, obtained by the fermentation of the natural sugar content of apples or pears (i) containing not more than 10 percent of

alcohol by volume without chaptalization or (ii) containing not more than seven percent of alcohol by volume regardless of chaptalization.

I. This section shall not limit the privileges set forth in subdivision A 8 of § 4.1-200, nor shall any person be denied the privilege of manufacturing and selling sweet cider.

Code 1950, § 4-27; 1978, c. 174; 1980, c. 324; 1992, c. 349; 1993, c. 866; 2011, cc. 265, 288; 2014, c. 787; 2015, c. 412.

ATTACHMENT 2

VIRGINIA CODE

Title 3.2 – Agriculture, Animal Care, and Food, Chapter 64 – Agritourism Activity Liability

Section 3.2-6400, Definitions

Section 3.2-6401, Liability limited; liability actions prohibited

Section 3.2-6402, Notice required

Title 15.2 – Counties, Cities and Towns, Chapter 22 Planning, Subdivision of Land and Zoning

Section 15.2-2288 – Localities may not require a special use permit for certain agricultural activities

Section 15.2-2288.3 – Licensed farm wineries; local regulation of certain activities

Section 15.2-2288.3.1 – Limited brewery license; local regulation of certain activities

Section 15.2-2288.3.2 – Limited distiller's license; local regulation of certain activities

Section 15.2-2288.6 – Agricultural operations, local regulation of certain activities

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 64. Agritourism Activity Liability

§ 3.2-6400. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agricultural products" means any livestock, aquaculture, poultry, horticultural, floricultural, viticulture, silvicultural, or other farm crops.

"Agritourism activity" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

"Agritourism professional" means any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation.

"Farm or ranch" means one or more areas of land used for the production, cultivation, growing, harvesting or processing of agricultural products.

"Inherent risks of agritourism activity" mean those dangers or conditions that are an integral part of an agritourism activity including certain hazards, including surface and subsurface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic animals; and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.

"Participant" means any person, other than an agritourism professional, who engages in an agritourism activity.

2006, c. 710, § 3.1-796.137; 2008, c. 860.

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 64. Agritourism Activity Liability

§ 3.2-6401. Liability limited; liability actions prohibited.

A. Except as provided in subsection B, an agritourism professional is not liable for injury to or death of a participant resulting from the inherent risks of agritourism activities, so long as the warning contained in § 3.2-6402 is posted as required and, except as provided in subsection B, no participant or participant's representative is authorized to maintain an action against or recover from an agritourism professional for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of agritourism activities; provided that in any action for damages against an agritourism professional for agritourism activity, the agritourism professional shall plead the affirmative defense of assumption of the risk of agritourism activity by the participant.

B. Nothing in subsection A shall prevent or limit the liability of an agritourism professional if the agritourism professional does any one or more of the following:

1. Commits an act or omission that constitutes negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage, or death to the participant;
2. Has actual knowledge or reasonably should have known of a dangerous condition on the land or in the facilities or equipment used in the activity, or the dangerous propensity of a particular animal used in such activity and does not make the danger known to the participant, and the danger proximately causes injury, damage, or death to the participant; or
3. Intentionally injures the participant.

C. Any limitation on legal liability afforded by this section to an agritourism professional is in addition to any other limitations of legal liability otherwise provided by law.

2006, c. 710, § 3.1-796.138; 2008, c. 860.

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 64. Agritourism Activity Liability

§ 3.2-6402. Notice required.

A. Every agritourism professional shall post and maintain signs that contain the notice specified in subsection B. The sign shall be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The notice shall consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction, or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or at the site of the agritourism activity, shall contain in clearly readable print the notice specified in subsection B.

B. The signs and contracts described in subsection A shall contain the following notice: "WARNING" or "ATTENTION" followed by "Under Virginia law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity."

C. Failure to comply with the requirements concerning signs and notices provided in this section shall prevent an agritourism professional from invoking the privileges of immunity provided by this chapter.

2006, c. 710, § 3.1-796.139; 2008, c. 860; 2016, c. 166.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2288. Localities may not require a special use permit for certain agricultural activities.

A zoning ordinance shall not require that a special exception or special use permit be obtained for any production agriculture or silviculture activity in an area that is zoned as an agricultural district or classification. For the purposes of this section, production agriculture and silviculture is the bona fide production or harvesting of agricultural products as defined in § 3.2-6400, including silviculture products, but shall not include the processing of agricultural or silviculture products, the above ground application or storage of sewage sludge, or the storage or disposal of nonagricultural excavation material, waste and debris if the excavation material, waste and debris are not generated on the farm, subject to the provisions of the Virginia Waste Management Act. However, localities may adopt setback requirements, minimum area requirements and other requirements that apply to land used for agriculture or silviculture activity within the locality that is zoned as an agricultural district or classification. Nothing herein shall require agencies of the Commonwealth or its contractors to obtain a special exception or a special use permit under this section.

Code 1950, § 15-968.5; 1962, c. 407, § 15.1-491; 1964, c. 564; 1966, c. 455; 1968, cc. 543, 595; 1973, c. 286; 1974, c. 547; 1975, cc. 99, 575, 579, 582, 641; 1976, cc. 71, 409, 470, 683; 1977, c. 177; 1978, c. 543; 1979, c. 182; 1982, c. 44; 1983, c. 392; 1984, c. 238; 1987, c. 8; 1988, cc. 481, 856; 1989, cc. 359, 384; 1990, cc. 672, 868; 1992, c. 380; 1993, c. 672; 1994, c. 802; 1995, cc. 351, 475, 584, 603; 1996, c. 451; 1997, c. 587; 2012, c. 455; 2014, c. 435.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning

This section has more than one version with varying effective dates. To view a complete list of the versions of this section see Table of Contents.

§ 15.2-2288.3. (Effective until July 1, 2018) Licensed farm wineries; local regulation of certain activities.

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth, and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and events of farm wineries licensed in accordance with Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic impact on the farm winery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for farm wineries throughout the Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby residents.

B, C. [Expired.]

D. No locality may treat private personal gatherings held by the owner of a licensed farm winery who resides at the farm winery or on property adjacent thereto that is owned or controlled by such owner at which gatherings wine is not sold or marketed and for which no consideration is received by the farm winery or its agents differently from private personal gatherings by other citizens.

E. No locality shall regulate any of the following activities of a farm winery licensed in accordance with subdivision 5 of § 4.1-207:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine;
2. The on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;

3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;
4. The sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;
5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or
6. The sale of wine-related items that are incidental to the sale of wine.

2006, c. 794; 2007, cc. 611, 657; 2009, cc. 416, 546.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning

This section has more than one version with varying effective dates. To view a complete list of the versions of this section see Table of Contents.

§ 15.2-2288.3:1. (Effective until July 1, 2018) Limited brewery license; local regulation of certain activities.

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia beer industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and public events of breweries licensed pursuant to subdivision 2 of § 4.1-208 to market and sell their products shall be reasonable and shall take into account the economic impact on such licensed brewery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such licensed breweries. Usual and customary activities and events at such licensed breweries shall be permitted unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at such licensed breweries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at such licensed brewery, the locality shall consider the effect on adjacent property owners and nearby residents.

B. No locality shall regulate any of the following activities of a brewery licensed under subdivision 2 of § 4.1-208:

1. The production and harvesting of barley, other grains, hops, fruit, or other agricultural products and the manufacturing of beer;
2. The on-premises sale, tasting, or consumption of beer during regular business hours within the normal course of business of such licensed brewery;
3. The direct sale and shipment of beer in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;
4. The sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;

5. The storage and warehousing of beer in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or

6. The sale of beer-related items that are incidental to the sale of beer.

C. Any locality may exempt any brewery licensed in accordance with subdivision 2 of § 4.1-208 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2288.3:2. Limited distiller's license; local regulation of certain activities.

A. Local restriction upon activities of distilleries licensed pursuant to subdivision 2 of § 4.1-206 to market and sell their products shall be reasonable and shall take into account the economic impact on such licensed distillery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such licensed distilleries. Usual and customary activities and events at such licensed distilleries shall be permitted unless there is a substantial impact on the health, safety, or welfare of the public.

B. No locality shall regulate any of the following activities of a distillery licensed under subdivision 2 of § 4.1-206:

1. The production and harvesting of agricultural products and the manufacturing of alcoholic beverages other than wine or beer;
2. The on-premises sale, tasting, or consumption of alcoholic beverages other than wine or beer during regular business hours in accordance with a contract between a distillery and the Alcoholic Beverage Control Board pursuant to the provisions of subsection D of § 4.1-119;
3. The sale and shipment of alcoholic beverages other than wine or beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;
4. The storage and warehousing of alcoholic beverages other than wine or beer in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or
5. The sale of items related to alcoholic beverages other than wine or beer that are incidental to the sale of such alcoholic beverages.

C. Any locality may exempt any distillery licensed in accordance with subdivision 2 of § 4.1-206 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.

2015, c. 695.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2288.6. Agricultural operations; local regulation of certain activities.

A. No locality shall regulate the carrying out of any of the following activities at an agricultural operation, as defined in § 3.2-300, unless there is a substantial impact on the health, safety, or general welfare of the public:

1. Agritourism activities as defined in § 3.2-6400;
2. The sale of agricultural or silvicultural products, or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation;
3. The preparation, processing, or sale of food products in compliance with subdivisions A 3, 4, and 5 of § 3.2-5130 or related state laws and regulations; or
4. Other activities or events that are usual and customary at Virginia agricultural operations.

Any local restriction placed on an activity listed in this subsection shall be reasonable and shall take into account the economic impact of the restriction on the agricultural operation and the agricultural nature of the activity.

B. No locality shall require a special exception, administrative permit not required by state law, or special use permit for any activity listed in subsection A on property that is zoned as an agricultural district or classification unless there is a substantial impact on the health, safety, or general welfare of the public.

C. Except regarding the sound generated by outdoor amplified music, no local ordinance regulating the sound generated by any activity listed in subsection A shall be more restrictive than the general noise ordinance of the locality. In permitting outdoor amplified music at an agricultural operation, the locality shall consider the effect on adjoining property owners and nearby residents.

D. The provisions of this section shall not affect any entity licensed in accordance with Chapter 2 (§ 4.1-200 et seq.) of Title 4.1. Nothing in this section shall be construed to affect the provisions of Chapter 3 (§ 3.2-300 et seq.) of Title 3.2, to alter the provisions of § 15.2-2288.3, or to restrict the authority of any locality under Title 58.1.

2014, cc. 153, 494.

ATTACHMENT 3

Virginia Acts of Assembly – 2016 Session

House Bill H879

Senate Bill S578

Senate Bill S579

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 710

An Act to amend and reenact §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-208 of the Code of Virginia, relating to alcoholic beverage control; farm wineries and limited brewery licenses; land zoned agricultural.

[H 879]

Approved April 6, 2016

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-208 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-100. (Effective until July 1, 2018) Definitions.

As used in this title unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available

upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons certified in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (i) (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth; and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume. "Farm winery" includes or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this sentence clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Board for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license issued by the Board.

"Licensee" means any person to whom a license has been granted by the Board.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Board may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Department of Alcoholic Beverage Control whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-100. (Effective July 1, 2018) Definitions.

As used in this title unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for

products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons certified in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (±) (a) located on a farm in the Commonwealth *on land zoned agricultural* with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) (b) located in the Commonwealth *on land zoned agricultural* with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for

fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume. "Farm winery" includes or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this sentence clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. *For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.*

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal

descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association

and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-208. Beer licenses.

The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a company under common control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common control of such brewery contiguous to such premises, or in a development contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the brewery license for on-premises consumption and in closed containers for off-premises consumption.

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises, provided that such samples shall be provided only to individuals for consumption on the premises of such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. *For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.*

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

5. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

6. Retail on-premises beer licenses to:

a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-premises consumption when carrying passengers.

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers.

d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments. No license shall be granted unless it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the licensee to sell beer, in paper, plastic, or similar disposable containers, during the performance of professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta, Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell beer during the event, in paper, plastic or similar disposable containers to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition halls" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed containers for off-premises consumption.

8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize the licensee to sell beer at the place of business designated in the brewery license, in closed containers which shall include growlers and other reusable containers, for off-premises consumption.

9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall

authorize the licensee to sell beer in closed containers for off-premises consumption.

2. That any farm winery or limited brewery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with Title 4.1 of the Code of Virginia and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for farm winery or limited brewery use shall be allowed to continue such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the farm winery or limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the farm winery or limited brewery on or after July 1, 2016.

3. That any person who, prior to July 1, 2016, (i) has a pending application with the Alcoholic Beverage Control Board (the Board) for a license as a farm winery or limited brewery in accordance with Title 4.1 of the Code of Virginia, (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for farm winery or limited brewery use, and (iii) subsequently is issued a license as a farm winery or limited brewery shall be allowed to engage in such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the farm winery or limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the farm winery or limited brewery on or after July 1, 2016.

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 671

An Act to amend and reenact § 4.1-208 of the Code of Virginia, relating to alcoholic beverage control; limited brewery licenses.

[S 578]

Approved April 1, 2016

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-208 of the Code of Virginia is amended and reenacted as follows:

§ 4.1-208. Beer licenses.

The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a company under common control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common control of such brewery contiguous to such premises, or in a development contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the brewery license for on-premises consumption and in closed containers for off-premises consumption.

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises, provided that such samples shall be provided only to individuals for consumption on the premises of such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. *For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.*

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's

license and purchases beer for resale pursuant to the privileges of such beer importer's license.

5. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

6. Retail on-premises beer licenses to:

a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-premises consumption when carrying passengers.

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers.

d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments. No license shall be granted unless it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the licensee to sell beer, in paper, plastic, or similar disposable containers, during the performance of professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta, Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell beer during the event, in paper, plastic or similar disposable containers to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition halls" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed containers for off-premises consumption.

8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize the licensee to sell beer at the place of business designated in the brewery license, in closed containers which shall include growlers and other reusable containers, for off-premises consumption.

9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall authorize the licensee to sell beer in closed containers for off-premises consumption.

2. That any limited brewery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with Title 4.1 of the Code of Virginia and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited brewery use shall be allowed to continue such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited brewery located on

land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited brewery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited brewery on or after July 1, 2016.

3. That any person who, prior to July 1, 2016, (i) has a pending application with the Alcoholic Beverage Control Board (the Board) for a license as a limited brewery in accordance with Title 4.1 of the Code of Virginia, (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited brewery use, and (iii) subsequently is issued a license as a limited brewery shall be allowed to engage in such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited brewery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited brewery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited brewery on or after July 1, 2016.

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 644

An Act to amend and reenact § 4.1-206 of the Code of Virginia, relating to alcoholic beverage control; limited distiller's licenses.

[S 579]

Approved April 1, 2016

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-206 of the Code of Virginia is amended and reenacted as follows:

§ 4.1-206. Alcoholic beverage licenses.

The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that manufacture not more than 36,000 gallons of alcoholic beverages other than wine or beer per calendar year, provided (i) the distillery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) agricultural products used by such distillery in the manufacture of its alcoholic beverages are grown on the farm. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. *For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.*

3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No

tasting license shall be required for conduct authorized by § 4.1-201.1.

7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.

2. That any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with Title 4.1 of the Code of Virginia and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to continue such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016,

may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

3. That any person who, prior to July 1, 2016, (i) has a pending application with the Alcoholic Beverage Control Board (the Board) for a license as a limited distillery in accordance with Title 4.1 of the Code of Virginia, (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use, and (iii) subsequently is issued a license as a limited distillery shall be allowed to engage in such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

ACTION – 1

Adoption of a Resolution Approving the Issuance by the Fairfax County
Economic Development Authority of its Revenue Bonds for the Benefit
GreenSpring Village, Inc. Refunding

ISSUE:

Board adoption of a resolution for the Fairfax County Economic Development Authority to issue revenue bonds up to \$30,000,000 for the benefit of GreenSpring Village, Inc.

RECOMMENDATION:

The County Executive recommends that the Board adopt the attached resolution.

TIMING:

Board action is requested on October 18, 2016

BACKGROUND:

The Fairfax County Economic Development Authority (“Authority”) has received a request from the GreenSpring Village, Inc. to issue up to \$30,000,000 of its revenue bonds to refund Revenue Bonds Series 2006A and 2006B for their facility located at 7440 Spring Village Drive, Springfield, Virginia 22150 (Fairfax County).

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1 – Resolution of the Board of Supervisors

Attachment 2 – Certificate of Public Hearing with supporting documents

Attachment 3 – Fiscal Impact Statement

STAFF:

Gerald L. Gordon, Director, Fairfax County Economic Development Authority

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF FAIRFAX, VIRGINIA

WHEREAS, the Fairfax County Economic Development Authority (the "Authority") has considered the application of Greenspring Village, Inc. (the "Applicant") requesting the issuance of the Authority's revenue bonds in an amount not to exceed \$30,000,000 (the "Bonds") to assist the Applicant in financing the following: (i) refunding the Authority's Refunding Revenue Bonds (Greenspring Village, Inc. Project), Series 2006 A; (ii) fund certain reserve funds, if any; and (iii) paying costs of issuance of the Bonds and other related costs of the financing;

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds;

WHEREAS, the Authority issues its bonds on behalf of the County of Fairfax, Virginia ("County"); the facilities refinanced with the proceeds of the Bonds include certain improvements located in the County; and the Board of Supervisors of the County (the "Board") constitutes the highest elected governmental unit of the County;

WHEREAS, the Authority has recommended that the Board approve the issuance of the Bonds; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bonds, subject to the terms to be agreed upon, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF FAIRFAX, VIRGINIA:

1. The Board approves the issuance of the Bonds by the Authority for the benefit of the Applicant, as required by Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended.
2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the financed facility or the Applicant.
3. The issuance of the Bonds as requested by the Applicant will not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia or the County, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof will be pledged to the payment of the Bonds. Neither the County nor the Authority shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from the revenues and money pledged therefor.
4. This resolution shall take effect immediately upon its adoption.

Adopted by the Board of Supervisors of the County of Fairfax, Virginia this ____ day of October, 2016.

A Copy Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors

[SEAL]

CERTIFICATE

The undersigned Secretary of the Fairfax County Economic Development Authority (the "Authority") certifies as follows:

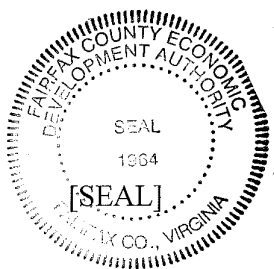
1. A meeting of the Authority was duly called and held on September 16, 2016, at 12:00 o'clock p.m. at the Dominion Room, The Tower Club, 8000 Towers Crescent Drive, Suite 1700, Tysons Corner, Virginia, pursuant to proper notice given to each Director of the Authority before such meeting. The meeting was open to the public. The time of the meeting and the place at which the meeting was held provided a reasonable opportunity for persons of differing views to appear and be heard.

2. The Chairman announced the commencement of a public hearing on the application of Greenspring Village, Inc., a Maryland nonprofit corporation, and that a notice of the hearing was published once a week for two successive weeks in a newspaper having general circulation in the County of Fairfax, Virginia ("Notice"), with the second publication appearing not less than seven days nor more than twenty-one days prior to the hearing date. A copy of the Notice has been filed with the minutes of the Authority and is attached as Exhibit A.

3. A summary of the statements made at the public hearing is attached as Exhibit B.

4. Attached as Exhibit C is a true, correct and complete copy of a resolution ("Resolution") adopted at such meeting of the Authority by a majority of the Directors present at such meeting and a majority of all of the Authority's Directors. The Resolution constitutes all formal action taken by the Authority at such meeting relating to matters referred to in the Resolution. The Resolution has not been repealed, revoked, rescinded or amended and is in full force and effect on this date.

WITNESS my hand and the seal of the Authority, this 16th day of September, 2016.



Secretary, Fairfax County Economic Development
Authority

Exhibits:

- A - Copy of Certified Notice
- B - Summary of Statements
- C - Bond Resolution

AFFIDAVIT OF PUBLICATION

AD # 14904846

TO WIT:

I hereby certify that on the 9th day of September, 2016, before me, the subscriber, DASHELLE D. ADDISON, a notary public, that the matters of facts set forth are true.

TIERRA D. MCKINLEY, who being duly sworn according to law, and oath says that he is an

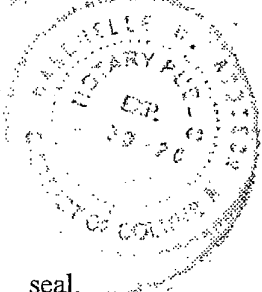
AUTHORIZED AGENT of THE WASHINGTON TIMES, L.L.C., publisher of

The Washington Times

Circulated daily, in the State of Virginia,
COUNTY OF FAIRFAX, and that the advertisement, of which the annexed is a true copy, was published in said newspaper 2 times(s) on the following dates:

Friday, September 2, 2016

Friday, September 9, 2016



Total cost \$829.92 Dollars

TIERRA D. MCKINLEY

As witness, my hand and notarial

seal.

Notary Public

My Commission

Expires

DASHELLE D. ADDISON
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires June 30, 2020

**NOTICE OF PUBLIC HEARING ON PROPOSED
REVENUE BOND FINANCING BY
FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY**

Notice is hereby given that the Fairfax County Economic Development Authority (the "Authority") will hold a public hearing on the application of Greenspring Village, Inc. (the "Corporation"), an organization that is not organized exclusively for religious purposes and is described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and whose address is 7440 Spring Village Drive, Springfield, Virginia 22150, in Fairfax County, Virginia ("Greenspring Village"). The Corporation has requested the Authority to issue up to \$30,000,000 of the Authority's revenue bonds (the "Bonds") and to loan the proceeds of the Bonds to the Corporation to (1) refinance a portion of the costs of the acquisition of a continuing care retirement community facility located at Greenspring Village (the "Facility") and owned by the Corporation by refunding the outstanding principal amount of the Authority's Retirement Community Revenue Refunding Bonds (Greenspring Village, Inc. Facility), Series 2006 A issued on October 12, 2006, the proceeds of which were loaned to the Corporation to refinance a portion of the costs of the acquisition of the Facility, (2) fund certain reserve funds, if any, and (3) pay costs of issuance of the Bonds and other related costs of the financing.

The issuance of the Bonds as requested by the Corporation is a limited obligation of the Authority and will not constitute a debt of the Commonwealth of Virginia or any of its political subdivisions, including the County of Fairfax, Virginia, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any of its political subdivisions, including the County of Fairfax, Virginia, will be pledged to the payment of the Bonds.

The public hearing, which may be continued or adjourned, will be held at 12:00 p.m. on September 16, 2016, before the Authority, at the Dominion Room, The Tower Club, 8000 Towers Crescent Drive, Suite 1700, Tysons Corner, Virginia 22182. Persons interested in the issuance of the Bonds or the nature of the proposed refunding may appear at the hearing and present their views orally or in writing. A copy of the Corporation's application is on file and is open for inspection at the office of the Authority's counsel, Thomas O. Lawson, Esquire at 10805 Main Street, Suite 200, Fairfax, Virginia, 22030, during normal business hours.

Fairfax County Economic
Development Authority

Advertised: September 2nd, and 9th, 2016

AD#14904846

EXHIBIT B TO CERTIFICATE

Summary of Statements

Bond Counsel appeared before the Authority to explain the proposed plan of financing. No one appeared in opposition to the proposed bond issue or the project.

RESOLUTION OF THE FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY AUTHORIZING (A) THE ISSUANCE OF RETIREMENT COMMUNITY REFUNDING REVENUE BONDS (GREENSPRING VILLAGE, INC. FACILITY) SERIES 2016 AND (B) CERTAIN SUPPLEMENTS AND AMENDMENTS TO THE BOND DOCUMENTS RELATED TO THE RETIREMENT COMMUNITY REFUNDING REVENUE BONDS (GREENSPRING VILLAGE, INC. FACILITY) SERIES 2006 A AND RETIREMENT COMMUNITY REFUNDING REVENUE BONDS (GREENSPRING VILLAGE, INC. FACILITY) SERIES 2014 AND APPROVING OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the Fairfax County Economic Development Authority, a political subdivision of the Commonwealth of Virginia (the "Authority"), duly created pursuant to Chapter 643, Acts of Assembly of 1964, as amended (the "Act"), to issue its revenue bonds for, among other purposes, the financing and refinancing of facilities for the residence or care of the aged that are owned and operated by organizations exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended ("Code"); and to protect and promote the health and welfare of the inhabitants of Virginia;

WHEREAS, the Authority has previously issued its Retirement Community Refunding Revenue Bonds (Greenspring Village, Inc. Facility) Series 2006 A (the "Series 2006 A Bonds") and its Amended and Restated Retirement Community Refunding Revenue Bonds (Greenspring Village, Inc. Facility) Variable Rate Demand Series 2006 B (the "Series 2006 B Bonds," and together with the Series 2006 A Bonds, the "Series 2006 Bonds"), pursuant to a Trust Indenture dated as of October 1, 2006 (the "Original Indenture") between the Authority and Wells Fargo Bank, National Association, as trustee (the "Trustee");

WHEREAS, pursuant to the Loan Agreement dated as of October 1, 2006 (the "Original Loan Agreement") between the Authority and Greenspring Village, Inc., an organization described in Section 501(c)(3) of the Code (the "Corporation"), the Authority loaned the proceeds of the Series 2006 Bonds to the Corporation to refund the outstanding principal amount of the Authority's Retirement Community Revenue Bonds (Greenspring Village, Inc. Facility), Series 1999A and Series 1999B originally issued on December 9, 1999 for purposes of financing in part the Corporation's acquisition of a continuing care retirement facility located in Springfield, Virginia in Fairfax County;

WHEREAS, subsequent to the issuance of the Series 2006 Bonds, pursuant to the First Supplemental Indenture dated as of June 1, 2011 (the "First Supplemental Indenture") between the Authority and the Trustee, the Original Indenture was amended and supplemented to provide for the conversion of the Series 2006 B Bonds to an "Index Rate" (the "2011 Conversion"), and in connection therewith, the Original Loan Agreement was amended and supplemented pursuant to the First Amendment to Loan Agreement dated as of June 1, 2011 (the "First Amendment to Loan Agreement") between the Authority and the Corporation;

WHEREAS, subsequent to the 2011 Conversion, the Original Indenture was further supplemented and amended pursuant to the Second Supplemental Indenture dated as of September 24, 2014 (the "Second Supplemental Indenture") between the Authority and the

Trustee to provide for the extension of the initial bank holding period for the Series 2006 B Bonds (the "2014 Extension");

WHEREAS, subsequent to the 2014 Extension, the Authority issued its Retirement Community Refunding Revenue Bonds (Greenspring Village, Inc. Facility) Series 2014 (the "Series 2014 Bonds") pursuant to the Third Supplemental Indenture dated as of October 1, 2014 (the "Third Supplemental Indenture" and together with the Original Indenture, the First Supplemental Indenture and the Second Supplemental Indenture, the "Existing Indenture") and loaned the proceeds thereof to the Corporation pursuant to the Second Amendment to Loan Agreement dated as of October 1, 2014 (the "Second Amendment to Loan Agreement" and together with the Original Loan Agreement and the First Amendment to Loan Agreement, the "Existing Loan Agreement") between the Authority and the Corporation to refund the outstanding principal amount of the Series 2006 B Bonds;

WHEREAS, at the request of the Corporation, the Authority has determined to issue and sell its Retirement Community Refunding Revenue Bonds (Greenspring Village, Inc. Facility) Series 2016 (the "Series 2016 Bonds") in an aggregate principal amount not to exceed \$30,000,000, pursuant to the Act, to assist the Corporation in (i) refunding the outstanding Series 2006 A Bonds, (ii) funding certain reserve funds, if any, and (iii) paying costs of issuance of the Series 2016 Bonds and other related costs of the financing (collectively, the "Refunding");

WHEREAS, a public hearing has been held on the date hereof on the proposed issuance of the Series 2016 Bonds, and the Authority desires to recommend approval of the issue to the Board of Supervisors of the County of Fairfax, Virginia (the "County Board");

WHEREAS, the Series 2016 Bonds will be issued pursuant to the Existing Indenture and a Fourth Supplemental Trust Indenture to be dated as of the first of the month of its execution and delivery (the "Fourth Supplemental Indenture" and, together with the Existing Indenture, the "Indenture") between the Authority and the Trustee;

WHEREAS, the Series 2016 Bonds will be limited obligations of the Authority, the principal of, premium, if any, and interest on which will be payable solely out of the receipts and revenues of the Authority from the Existing Loan Agreement, as further amended by a Third Amendment to Loan Agreement to be dated as of the first month of its execution and delivery (the "Third Amendment to Loan Agreement") between the Authority and the Corporation;

WHEREAS, (a) no Commissioner of the Authority is an officer or employee of the County of Fairfax, Virginia, (b) each Commissioner has, before entering upon his or her duties during his or her present term of office, taken and subscribed to the oath prescribed by Section 49-1 of the Code of Virginia of 1950, as amended, and (c) at the time of their appointments and at all times thereafter, including the date hereof, all of the Commissioners of the Authority have satisfied the residency requirements of the Act;

WHEREAS, no Commissioner of the Authority has any personal interest or business interest in the Corporation or the proposed Series 2016 Bonds or has otherwise engaged in conduct prohibited under the Conflict of Interests Act, Chapter 31, Title 2.2 of the Code of

Virginia of 1950, as amended in connection with this resolution or any other official action of the Authority in connection therewith;

WHEREAS, the Corporation has received a proposal from STI Institutional & Government, Inc. (the "Bond Purchaser") to purchase the Series 2016 Bonds upon certain terms and conditions which make supplements and amendments to certain of the Bond Documents (as defined in the Existing Indenture) necessary or desirable;

WHEREAS, in connection with the Refunding, the Corporation has requested that the Authority approve the following documents (the "Refunding Documents"), forms of which were presented to the Authority at this meeting:

(1) the Fourth Supplemental Indenture, including the forms of the Series 2016 Bonds attached as exhibits to the Fourth Supplemental Trust Indenture, bearing interest and payable as provided therein and in the Fourth Supplemental Trust Indenture, and

(2) the Third Amendment to Loan Agreement;

WHEREAS, the Refunding Documents and any other amending or supplemental documentation relating to the Refunding shall reflect the following terms of the Series 2016 Bonds (the "Bond Terms"): (1) the aggregate principal amount of the Series 2016 Bonds shall not exceed \$30,000,000, (2) the interest rate borne by the Series 2016 Bonds shall not exceed the maximum rate permitted by law and (3) the final maturity date of the Series 2016 Bonds shall be no later than October 1, 2036; and

WHEREAS, in connection with the Refunding, the Corporation may determine that changes to the Existing Indenture and the Existing Loan Agreement may be in the best interest of the Corporation.

NOW, THEREFORE, BE IT RESOLVED BY THE FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY:

1. The Refunding and the issuance of the Series 2016 Bonds are hereby authorized and approved. The Series 2016 Bonds shall be substantially in the forms attached as exhibits to the Fourth Supplemental Indenture.

2. The Series 2016 Bonds and the Refunding Documents are approved in substantially the forms on file with the Secretary of the Authority, with such changes, insertions and omissions consistent with the Bond Terms (including, without limitation, changes of the dates thereof), including such changes to the Existing Indenture and the Existing Loan Agreement relating to the Series 2014 Bonds as deemed by the Corporation to be in its best interests (collectively, the "Series 2014 Amendments"), as do not adversely affect the interests of the Authority as may be approved by the officers executing the same, such approval to be conclusively evidenced by such execution thereof.

3. The execution, delivery and performance by the Authority of the Refunding Documents are authorized. The execution of the Series 2016 Bonds and their delivery against payment therefor are hereby authorized.

4. The Chairman and the Vice Chairman of the Authority are each hereby authorized and directed to execute and deliver the Series 2016 Bonds and the Refunding Documents, and any other supplemental documents and certificates consistent with the Refunding Documents and the Series 2014 Amendments, including, without limitation, documents and certificates in connection with any qualified interest rate hedge product related to the Series 2016 Bonds and any amendments to the Deed of Trust (as defined in the Existing Indenture), as may be desired on behalf of the Authority, and the Secretary or the Assistant Secretary of the Authority is hereby authorized to attest and affix the Authority's seal to the Series 2016 Bonds, the Refunding Documents, the Series 2014 Amendments and any other documents consistent therewith. The signatures of the Chairman or Vice Chairman and the Secretary or any Assistant Secretary and the seal of the Authority may be by facsimile.

5. The officers, employees and agents of the Authority, and each of them, is expressly authorized, empowered and directed from time to time and at any time to do and perform all acts and things and to execute, acknowledge and deliver in the name and on behalf of the Authority all documents, certificates, financing statements, instruments and other papers, whether or not herein mentioned, including, without limitation, notices of conversion and mandatory tender or purchase, as any such officer, employee or agent of the Authority may determine to be necessary, appropriate, helpful or desirable in order to carry out the terms and provisions of this resolution, the Fourth Supplemental Indenture, any other Refunding Documents consistent therewith, the Series 2014 Amendments and the Refunding, such determination to be conclusively evidenced by the performance of such acts and things and the execution of any such notice, certificate, financing statement, instrument or other paper.

6. The Authority determines that the issuance of the Series 2016 Bonds in accordance with the terms of the Indenture, the Refunding Documents and the Series 2014 Amendments and all action of the Authority contemplated by them will be in furtherance of the purposes for which the Authority was organized.

7. At the request of the Corporation, the Authority approves McGuireWoods LLP, Tysons, Virginia, as bond counsel in connection with the issuance of the proposed Series 2016 Bonds and approves the sale of the Series 2016 Bonds to the Bond Purchaser.

8. The issuance of the Series 2016 Bonds as requested by the Corporation will not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia or the County of Fairfax, Virginia or the Authority, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof will be pledged to the payment of such Series 2016 Bonds.

9. The approval of the issuance of the Series 2016 Bonds does not constitute an endorsement to the Bond Purchaser or any other purchaser of the Series 2016 Bonds of either the Series 2016 Bonds or the creditworthiness of the Corporation or the facilities financed or refinanced by the Series 2016 Bonds.

10. The Authority recommends approval of the Series 2016 Bonds by the County Board in accordance with the requirements of Section 147(f) of the Code.

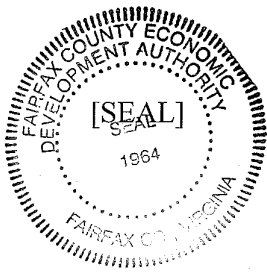
11. All costs and expenses of the Authority in connection with the Refunding and the Series 2014 Amendments, including the fees and expenses of counsel to the Authority, shall be paid by the Corporation, or to the extent permitted by applicable law, from the proceeds of the Series 2016 Bonds. If for any reason the Series 2016 Bonds are not issued, it is understood that all such expenses will be paid by the Corporation and that the Authority will have no responsibility therefor.

12. This resolution will take effect immediately upon its adoption.

CERTIFICATE

The undersigned Secretary of the Fairfax County Economic Development Authority (the "Authority") certifies that the foregoing is a true, correct and complete copy of a resolution adopted by a majority of the Commissioners of the Authority present and voting at a meeting duly called and held on September 16, 2016, in accordance with law, and that such resolution has not been repealed, revoked, rescinded or amended but is in full force and effect on this date.

WITNESS the following signature and seal of the Authority, this 16th day of September, 2016.



A handwritten signature in cursive script, appearing to read "Donald John", written over a horizontal line.

Secretary of the Fairfax County Economic
Development Authority

FAIRFAX COUNTY

ECONOMIC DEVELOPMENT AUTHORITY

Industrial Revenue Bonds

Fiscal Impact Statement

Applicant: Greenspring Village, Inc.

Facility: Retirement and continuing care community located at 7440 Spring Village Drive, Springfield, Virginia 22150
(Fairfax County)

Date: August 16, 2016

1. Maximum amount of financing sought: \$ 30,000,000
2. Estimated taxable value of the facility's real property to be constructed in the municipality: \$ NA
3. Estimated real property tax per year using present tax rates: \$ 1,879,378
4. Estimated personal property tax per year using present tax rates: \$ 0
5. Estimated merchants' capital tax per year using present tax rates: \$ 0
6. Estimated dollar value per year of:
 - a. goods that will be purchased from Virginia companies within the locality \$ 2,100,000
 - b. goods that will be purchased from non-Virginia companies within the locality \$ 9,000,000
 - c. services that will be purchased from Virginia companies within the locality \$ 1,000,000
 - d. services that will be purchased from non-Virginia companies within the locality \$ 2,600,000
7. Estimated number of regular employees on year-round basis: Headcount - 1219
FTE - 842
8. Average annual salary per employee: FTE - \$41,585
Headcount - \$28,721.06

Authority Chairman
 Name of Authority

Catherine A. Lange
Fairfax County Economic Development Authority

8300 Boone Boulevard | Suite 450 | Vienna, Virginia 22182-2633 USA

t: 703.790.0600 | f: 703.893.1269 | e: info@fceda.org

www.FairfaxCountyEDA.org

Offices worldwide: San Francisco | Bangalore | Frankfurt | London | Seoul | Tel Aviv

80932636_1

ACTION – 2

Authorization for the County Executive to Execute the Agreement Between The United States Department of the Interior National Park Service and Fairfax County

ISSUE:

Authorization from the Board is required for the County Executive to execute the Agreement between The United States Department of the Interior National Park Service (hereinafter “NPS”) and Fairfax County (hereinafter “the County”) to establish the standards, terms, and conditions under which the County will upgrade and repair the existing sewage odor control system in the Carderock Recreation Area (hereinafter “Carderock”) and to provide and maintain electrical services to the upgraded system. The existing odor control system is located on an existing siphon sewer terminal chamber that is owned and maintained by Fairfax County, but located on the Maryland side of the Potomac River. Carderock is part of the C&O Canal National Historical Park and includes a pavilion which is used for picnics, making this a sensitive location. The County has received numerous odor complaints regarding this chamber, which was constructed when this sanitary sewer was installed in 1964. This work will be performed as part of the Scotts Run and Carderock Sluice Gate Rehabilitation and Odor Control Project which includes sanitary sewer rehabilitation on the Virginia and Maryland portion of the Potomac Interceptor.

RECOMMENDATION:

The County Executive recommends that the Board authorize him to execute the Agreement between the County and NPS substantially in the form of the draft agreement (Exhibit A).

TIMING:

Board action is requested on October 18, 2016, in order to move forward with the execution of this agreement.

BACKGROUND:

The County wishes to upgrade and repair the existing sewage odor control facility, which is owned and maintained by Fairfax County but is located in Maryland at Carderock. The odor control facility is located on top of an existing siphon sewer terminal chamber. Three sanitary sewer lines, which begin at a diversion chamber located at Scotts Run Nature Preserve in Fairfax County, cross under the Potomac

Board Agenda Item
October 18, 2016

River and discharge into this terminal chamber, where the flow then is conveyed to the Blue Plains Wastewater Treatment Plant in Washington, DC. The current odor control structure is a passively vented carbon odor control system that does not use electricity. This will be replaced with a much more effective active odor control facility that requires electricity in order to be fully functional.

To provide electricity to the upgraded facility, the County wishes to connect to the existing electric line, which is owned and maintained by the NPS, by installing a metered tap line. As part of this Agreement, the County will provide for the initial tree and limb removal around the electric line, and reimburse the NPS for 50% of the cost of future periodic, maintenance of tree and limb clearance for safety and continuity of electricity along the length of the line. The proposed work will be completed under the Scotts Run and Carderock Sluice Gate Rehabilitation/Odor Control project #WW-000007, Fund #69300. This project is included in the FY 2017 – FY 2021 Adopted Capital Improvement Program (with Future Fiscal Years to 2026).

FISCAL IMPACT:

Initial construction costs relate to upgrading and repairing the existing sewage odor control facility, connecting to the existing electric line by installing a metered tap line, performing initial tree and limb removal around the existing electric line, and inspecting, repairing or replacing the existing electric line to improve reliability and safety. Future fiscal impact will be the 50% of the cost to provide periodic maintenance of vegetation within the electric line right-of-way and reimbursing the NPS for the cost of electricity to maintain the operation of the odor control system. The National Park Service will be responsible for future line maintenance and its associated costs. In return, the County will be invoiced for 50% of the total cost on an annual basis. The initial construction costs for the odor control at the Carderock site are estimated to be approximately \$400,000. As of September 16, 2016, funding in the amount of \$11,547,021 is currently available in Project WW-000007, Collection System Replacement and Rehabilitation, Fund 69300, Sewer Construction Improvements.

ENCLOSED DOCUMENTS:

Exhibit A - Agreement between The United States Department of the Interior National Park Service and Fairfax County

STAFF:

Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services
Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities

AGREEMENT
BETWEEN
THE UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
AND
FAIRFAX COUNTY, VIRGINIA

This Agreement is entered into by and between the National Park Service (hereinafter "NPS"), United States Department of Interior, acting through the Superintendent of the Chesapeake and Ohio Canal National Historical Park (hereinafter "Park"), and Fairfax County of Virginia, acting through the Department of Public Works and Environmental Services (hereinafter "County").

Article I: Background and Objectives

The objective of this Agreement is to establish the standards, terms and conditions under which the County will upgrade and repair the existing sewage odor control system in the Carderock Recreation Area (hereinafter "Carderock") and to provide and maintain electrical services to the upgraded system.

The Park is NPS land managed by the Chesapeake and Ohio Canal National Historical Park, a unit within the National Park Service's National Capital Region. Carderock is a recreational area within the Park located in Potomac, Maryland and is bordered by MacArthur Boulevard to the North and the Potomac River to the South (Attachment A – Carderock Description and Location).

The County wishes to upgrade and repair the existing sewage odor control facility, which is located in Carderock. To provide electricity to the upgraded facility, the County wishes to connect to the existing electric line, which is owned and maintained by the NPS, by installing a metered tap line. As part of this Agreement, the County will provide initial, and reimburse the NPS for 50% of the cost of future periodic, maintenance of tree and limb clearance for safety and continuity of electricity along the length of the line. All work will be performed pursuant to the activities and conditions described herein.

Article II: Authority

Pursuant to 42 U.S.C. §1856, the NPS is authorized to enter into this Agreement.

Article III: Statement of Work

A. The County agrees to:

1. Upgrade and repair the sewage odor control facility within the Park as authorized by Special Use Permit.

2. Install metering system to connect existing electric line within Carderock to odor control facility.
3. Perform initial tree and limb removal around electric line from the PEPCO meter at the intersection of MacArthur Boulevard and Garmon Road to the odor control facility. All vegetation removal and trimming shall be conducted to meet the following guidelines provided by the American National Standards Institute (ANSI):
 - a. ANSI Standard A300 – American National Standard for Tree Care Operations – Tree, Shrub, and Other Woody Plant Management – Standard Practices
 - b. ANSI Standard Z133 – American National Standard for Arboricultural Operations – Safety Requirements
4. Reimburse the NPS for 50% of the cost to provide periodic maintenance of vegetation within electric line right-of-way to defined ANSI Standards A300 and Z133.
5. In consultation with a licensed electrical contractor, inspect and repair the existing electric power line to improve reliability and safety. Repair may include replacement.
6. Reimburse the NPS for the cost of electricity to maintain the operation of the odor control system, subject to those funds being made available to the County pursuant to an annual or other lawful appropriation.
7. Inform the NPS of construction start and end dates and provide NPS with contact information for awarded contractors and project managers.
8. Notify the NPS when access is needed for either emergency or periodic maintenance of the odor control facility or the electric line.
9. All woody plant debris resulting from vegetation work conducted by the County and authorized by this Agreement will be removed by the County or its contractors from the Park within one (1) day of completion of such work.
10. Maintain, preserve and do not adversely affect existing amenities of the Park including the layout of visitor facilities or vegetation not within the right-of-way of the electric line. Any proposed change to these must be approved in advance by the NPS in writing.
11. Fulfill financial obligations to the NPS by submitting payment for electrical use within 30 days of receipt of annual invoice, subject to those funds being made available to the County pursuant to an annual or other lawful appropriation.

B. The NPS agrees to:

1. Furnish the County with vegetation management standards for maintenance of electric rights-of-way and any updates to those standards. The County shall be entitled to rely on the most current version of such standards furnished to the County by NPS.
2. Permit the County to connect and install an electric tap line and metering system to power the sewage odor control facility in the Park.
3. Permit access to the County or its contractors to perform construction work associated with a Special Use Permit, conduct initial vegetation management within the existing electric right-of-way, and provide upgrades to electric line and/or equipment and to conduct emergency or periodic maintenance of the sewage odor control facility including the electric tap line and meter.
4. Provide annual invoices by January 30th to the County for use of electricity at the sewage odor control facility. Such invoice may include the cost of periodic maintenance of the electric line and right-of-way for the previous year.

C/ The NPS and the County jointly agree to:

1. Identify a suitable location for the electric tap line and meter for the odor control facility.
2. Provide to the other party a list of responsible persons, with appropriate contact information, to be contacted in an emergency or for access to the Park for emergency or periodic maintenance.
3. Communicate and work together as needed or requested to accomplish the purposes of this Agreement.
4. Make timely decisions on matters necessary to proper implementation and administration of this Agreement.
5. Work together in good faith to resolve differences at the level of the Key Officials listed in this Agreement prior to elevating matters within the County or appealing elsewhere within NPS or the Federal government.

Article IV: Terms of the Agreement

This Agreement will be effective for a period of five (5) years from the date of the last signature to this Agreement unless either renewed pursuant to this Article, or modified or terminated pursuant to Article V.

This Agreement can be extended prior to its expiration for an additional five-year period through the mutual, written consent of the parties.

Article V: Modification and Termination

- A. This Agreement may be modified only by the mutual, written consent of the parties.
- B. Either party may terminate this Agreement by providing the other party with thirty (30) days advance written notice. In the event that one party provides the other party with notice of its intention to terminate, the parties will meet promptly to discuss the reasons for the notice and to try to resolve their differences.
- C. Either Party may terminate this Agreement for the convenience of the Government, at any time, when it is determined, in their sole discretion, to be in the best interest of the public to do so. The effected parties will be notified within five (5) working days following termination.

Article VI: Key Officials

- A. Key Officials are essential to ensure maximum coordination and communication between the parties with respect to the work being performed. They are:

1. For the NPS:

Superintendent
Chesapeake and Ohio Canal National Historical Park
National Park Service
1850 Dual Highway, Suite 100
Hagerstown, MD 21740

2. For the County:

Director
Wastewater Collection Division
Fairfax County Department of Public Works and Environmental Services
6000 Freds Oak Road
Burke, VA 22015

- B. **Communications** – The County will address any communication regarding this Agreement to the NPS Key Official identified in this article with a copy to the superintendent of the Park. Communications that relate solely to routine operational matters described in the current work plan may be sent only to the NPS Key Official.
- C. **Changes in Key Officials** – Neither the NPS nor the County may make any permanent change in a Key Official without advance written notice to the other party. The notice will include a justification with sufficient detail to permit evaluation of the impact of such a change on the scope of work specified within this Agreement. Any permanent change in Key Officials will be made only by modification to this Agreement.

Article VII: Prior Approval

- A. The County shall obtain prior written approval, which may be in the form of an email, from the NPS prior to:
 - 1. Selection of a licensed contractor to conduct electric line maintenance or tree work.
 - 2. Application of fertilizers, herbicides, fungicides and pesticides as part of the maintenance of the sewage odor control facility, including the electric tap line and meter.
 - 3. Initial or emergency and periodic vegetation maintenance at the sewage odor control facility, including the electric tap line and meter.
 - 4. Entering into third-party agreements specifically related to the implementation of this Agreement.
 - 5. Constructing any structure or making any improvements on NPS property not outlined in this Agreement.

Article VIII: Reports and/or Other Deliverables

- A. The County shall provide the NPS with:
 - 1. Documentation of any pre-approved pesticide and herbicide applications within the Park by December 31st of the calendar year in which application was completed. Information to be reported includes trade name, active ingredient, amount of chemical applied, targeted pests, dates of application, and weather during applications.

Article IX: Standard Clauses

- A. **Non-Discrimination** – All activities pursuant to or in association with this Agreement will be conducted without discrimination on grounds of race, color, sexual orientation, national origin, disabilities, religion, age, or sex, as well as in compliance with the requirements of any applicable Federal laws, regulations, or policies prohibiting such discrimination.
- B. **Lobbying Prohibition** – 18 U.S.C. §1913, Lobbying with Appropriated Moneys, as amended by Public Law 107-273, Nov. 2, 2002 – To the extent that the County commits in this Agreement or any related agreement to raise funds from non-federal sources for a particular purpose or project to benefit NPS, the County agrees that it will not lobby for or otherwise seek the appropriation of funds from Congress to meet that commitment. The County may not use any appropriated funds (including property, utilities, or services acquired with, or supported by, appropriated funds) to lobby or attempt to influence Congress or any official of any government.

- C. **Anti-Deficiency Act** – 31 U.S.C. §1341 – Nothing contained in this Agreement shall be construed as binding the NPS to expend in any one fiscal year any sum in excess of appropriations made by Congress for the purposes of this Agreement for that fiscal year, or other obligation for the further expenditure of money in excess of such appropriations. Similarly, nothing in this Agreement shall obligate the County to expend or provide any funds beyond those appropriated pursuant to an annual or other lawful appropriation.
- D. **Compliance with Applicable Laws** – This Agreement and performance hereunder is subject to all applicable laws, regulations and government policies, whether now in force or hereafter enacted or promulgated. Nothing in this Agreement shall be construed as an impairment of the authority of the NPS to supervise, regulate, and administer its property under applicable laws, regulations, and management plans or policies as they may be modified from time-to-time, or inconsistent with or contrary to the purpose or intent of any Act of Congress.
- E. **Civil Rights** – During the performance of this Agreement, the participants agree to abide by the terms of U.S. Department of the Interior - Civil Rights Assurance Certification, non-discrimination and will not discriminate against any person because of race, color, religion, sex, or national origin. The participants will take affirmative action to ensure that applicants are employed without regard to their race, color, sexual orientation, national origin, disabilities, religion, age, or sex.
- F. **Promotions** – Neither Party will publicize nor otherwise circulate promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts or other publications), which states or implies Governmental, Departmental, bureau or Government employee endorsement of a product, service, or position which the County represents. No release of information relating to this Agreement may state or imply that the Government approves of the County's work product, or considers the County's work product to be superior to other products or services.
- G. **Public Information Release**
1. **Release of Information** – The County must obtain prior approval through the NPS Key Official for any public information releases which refer to the Department of the Interior, any bureau, park unit, or employee (by name or title), or this Agreement. The specific text, layout and photographs of the proposed release must be submitted with the request for approval. Likewise, the NPS must obtain prior approval through the County Key Official for any public information releases which refer to the County, its employees (by name or title), or this Agreement. The specific text, layout and photographs of the proposed release must be submitted with the request for approval.
 2. **Publications of Results of Studies** – No party will unilaterally publish a joint publication without consulting the other party. This restriction does not apply to popular publication of previously published technical matter. Publications

pursuant to this Agreement may be produced independently or in collaboration with others; however, in all cases proper credit will be given to the efforts of those parties contributing to the publication. In the event no agreement is reached concerning the manner of publication or interpretation of results, either party may publish data after due notice and submission of the proposed manuscripts to the other. In such instances, the party publishing the data will give due credit to the cooperation but assume full responsibility for any statements on which there is a difference of opinion.

3. Nothing in this Agreement shall be interpreted to preclude the County from fulfilling its obligations under the Virginia Freedom of Information Act.
- H. **Members of Congress** – Pursuant to 41 U.S.C. §22, no Member of, Delegate to, or Resident Commissioner in Congress shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom, unless the share or part benefit is for the general benefit of a corporation or company.
- I. **Agency** – The County is not an agent or representative of the United States, the Department of the Interior, or the NPS, nor will the County represent itself as such to third parties. NPS employees are not agents of the County and will not represent themselves as such to third parties. No joint venture, joint enterprise or other entity is created by this Agreement.
- J. **Non-Exclusivity** – This Agreement in no way restricts either the NPS or the County from entering into similar agreements, or participating in similar activities or arrangements, with other public or private agencies, organizations, or individuals.
- K. **Waiver** – No waiver of any provisions of this Agreement shall be effective unless made in writing and signed by the waiving party. No waiver of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions thereof.
- L. **Survival** – Any and all provisions that, by their terms or otherwise, are reasonably expected to be performed after the expiration or termination of this Agreement, will survive and be enforceable after the expiration or early termination of this Agreement. Any and all liabilities, actual or contingent, that have arisen during the term of this Agreement and in connection with this Agreement will survive expiration or termination of this Agreement.
- M. **Interpretation** – The headings of the Articles in this Agreement are inserted only as a matter of convenience and shall in no way be construed to define or limit the scope or intent, or affect the meaning or interpretation, of this Agreement. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." Additionally, the phrase "for the benefit of NPS" means donations of money (including interest and earnings thereon) and/or in-kind donations that were solicited for the express purpose or implied purpose of using them, whether in whole or in part, to

support NPS, or NPS's projects, programs or resources. This Agreement shall not be construed in favor of or against either party by reason of the extent to which such party or its professional advisors participated in the preparation of this Agreement or based on a party's undertaking of any obligation under this Agreement.

- N. **Force Majeure** – Neither party will be liable for failure to perform its obligations under this Agreement due to events beyond its reasonable control, including, but not limited to, strikes, riots, wars, fire, acts of God, and acts in compliance with or required by any applicable laws or regulations.
- O. **Donation Acceptance** – This Agreement assists in ensuring that NPS donation acceptance and the related activities of the parties comply with applicable laws, regulations and government policies. Therefore, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, both parties intend to be legally bound by this Agreement.

Article X: Liability

- A. The County shall not be responsible for the acts and omissions of its employees connected with the performance of this Agreement absent gross negligence or willful misconduct by the County.

The County agrees to include the following language in its solicitation for construction services related to the upgrade and repair the existing sewage odor control system in Carderock:

A portion of the work will require entry by the Contractor onto land owned by the federal government. The Contractor, therefore, agrees to indemnify, save and hold harmless, and defend the United States against all fines, claims, damages, losses, judgments, and expenses resulting from any act or omission of the Contractor, its employees, representatives, or agents. The NPS shall not be held responsible to Contractor for any and all accidents and injuries arising out of or in any way connected to activities authorized pursuant to this Agreement. The Contractor and its agents will maintain responsibility for the safety and safe practices of those employees or contractors performing any and all services authorized pursuant to this Agreement.

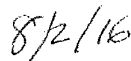
Article XI: Signatures

This Agreement is approved by the following signatories and becomes effective as of the date of the last signature affixed.

FOR THE NATIONAL PARK SERVICE:



Kevin D. Brandt, Superintendent
Chesapeake and Ohio Canal National Historical Park
National Capital Region
National Park Service



Date

FOR FAIRFAX COUNTY OF VIRGINIA:

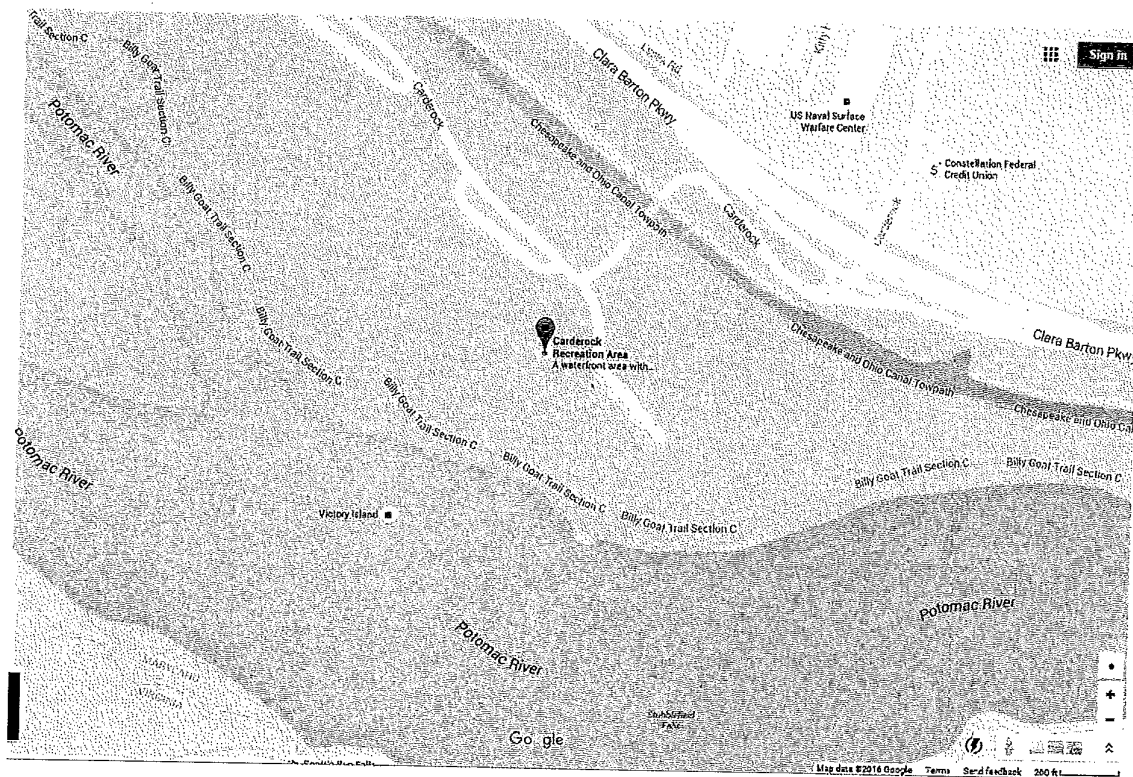
Edward L. Long, Jr.
County Executive
County of Fairfax, Virginia

Date

ATTACHMENT A

CARDEROCK DESCRIPTION AND LOCATION

- A. Carderock Recreation Area is NPS land managed by the Chesapeake and Ohio Canal National Historical Park, a unit within the National Capital Region of the United States National Park Service. Carderock is generally located in Potomac, Maryland and is bordered by MacArthur Boulevard to the North and the Potomac River to the South. The below map shows the approximate location of the Carderock Recreation Area where the sewer odor control facility is located.



Board Agenda Item
October 18, 2016

ACTION - 3

Authorization for the Department of Transportation to Apply for Funding and Endorsement for the Virginia Department of Transportation's FY 2018 Transportation Alternatives Grant Program (Lee and Providence Districts)

ISSUE:

Board of Supervisors authorization is requested for the Department of Transportation to apply for funding from the Virginia Department of Transportation (VDOT) FY 2018 Transportation Alternatives Grant Program. Funding of \$1.6 million will be requested for the following three projects:

- \$800,000, Cinder Bed Bikeway
- \$400,000, Van Dorn Street Bicycle and Pedestrian Improvements
- \$400,000, Providence District Bike Share

Each project requires a project endorsement resolution (Attachment 1) from the local governing body. These projects require a Local Cash Match of \$400,000 (\$200,000 for Cinder Bed Bikeway, \$100,000 for Van Dorn Street Bicycle and Pedestrian Improvements, and \$100,000 for Providence District Bike Share). The total required Local Cash Match is available in Fund 40010, County and Regional Transportation Projects. No new General Fund resources are required. If the County is awarded funding, staff will submit another item to accept the awards and execute the Standard Project Administration Agreements with VDOT.

RECOMMENDATION:

The County Executive recommends the Board of Supervisors authorize the Department of Transportation to apply for funding in the amount of \$1.6 million for three projects through the VDOT FY 2018 Transportation Alternatives Program and to adopt the project endorsement resolutions. The total required Local Cash Match of \$400,000 is available in Fund 40010, County and Regional Transportation Projects.

TIMING:

Board approval of the grant applications and adoption of the project endorsement resolutions is requested on October 18, 2016, to meet the November 1, 2016, application deadline.

BACKGROUND:

The Transportation Alternatives Set-aside (TA), included in the Federal Surface Transportation Act, Fixing America's Surface Transportation Act (FAST Act), replaced The Transportation Alternatives Program (TAP), included in the Federal Surface Transportation Act, Moving Ahead for Progress in the 21st Century (MAP-21). TA is similar in nature to TAP. Applicants will be required to provide the same 20 percent match, with grant awards covering the 80 percent remaining. Some of the major differences are:

- Transportation Alternatives Set-Aside has the same nine eligible categories as TAP. No County projects were affected by this change. The nine categories of eligible projects are:
 - Construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists, and other non-motorized forms of transportation.
 - Construction, planning, and design of infrastructure-related projects and systems that will provide safe routes for non-drivers to access daily needs.
 - Conversion and use of abandoned railroad corridors for trails
 - Construction of turn-outs, overlooks, and viewing areas to promote the scenic and historic character of local roads.
 - Inventory, control, or removal of outdoor advertising.
 - Historic preservation and rehabilitation of historic transportation facilities.
 - Vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, and provide erosion control
 - Archaeological activities relating to impacts from implementation of a transportation project eligible under this title.
 - Environmental mitigation activity, including prevention and abatement activities to address storm water mgmt., control, and water pollution related to highway runoff.

Board Agenda Item
October 18, 2016

- Since the Safe Routes to Schools and Recreational Trails Programs are still merged under TA, Safe Routes to Schools applicants will continue to provide the 20 percent local match.

The Board should be aware that any approved funds will be distributed through the jurisdiction endorsing the project, and that the jurisdiction endorsing the TA project will be responsible for any cost overruns. Proposed applications to be completed by County staff have the source of the local match identified in the project listing. Staff will also pursue future funding opportunities, such as future TA grants or other resources, to reduce the total commitment from the County.

The Board should also be aware that VDOT's TA regulations require the sponsoring jurisdiction to accept responsibility for future maintenance and operating costs of any projects that are funded.

On September 15, 2016, County staff conducted a public meeting in response to VDOT modified guidelines that allow for other means of public participation other than public hearings for TAP. The meeting minutes and presentation are shown in Attachment 3.

Applications are due to VDOT on November 1, 2016. The applications submitted to VDOT will be reviewed by both VDOT staff (with recommendations forwarded to the Commonwealth Transportation Board) and the Transportation Planning Board (TPB). Both the CTB and TPB will make announcements on funding decisions in summer 2017.

County staff recommends forwarding three applications to VDOT and TPB for FY2018:

Cinder Bed Bikeway	\$800,000
Van Dorn Street Bicycle and Pedestrian Improvements	\$400,000
Providence District Bike Share	\$400,000

Details of each project are shown in Attachment 1.

The FAST Act has provided funding for years 2016-2020, and VDOT has informed local jurisdictions that the program should be stable in this format through 2020.

FISCAL IMPACT:

Grant funding of \$1.6 million is being requested from the Virginia Department of Transportation for three projects related to the FY 2018 Transportation Alternatives Program. The Local Cash Match requirement of \$400,000 is available in Fund 40010, County and Regional Transportation Projects. This grant does not allow for the recovery of indirect costs. If the County is awarded funding, staff will submit another

Board Agenda Item
October 18, 2016

item to accept the awards and execute the Standard Project Administration Agreements with VDOT.

CREATION OF POSITIONS:

No positions will be created through this action.

ENCLOSED DOCUMENTS:

Attachment 1 – Proposed FY 2018 Transportation Alternative Projects

Attachment 2 – Project Endorsement Resolutions

Attachment 3 – Public Meeting Minutes and Presentation (9/17/2015)

STAFF:

Robert A. Stalzer, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Ken Kanownik, Transportation Planner, Coordination and Funding Division, FCDOT

Proposed Transportation Alternatives Projects, FY2018
(Descriptions Based on Information Provided by Applicant)

1. Cinder Bed Bikeway

As part of the County's bicycle master planning efforts, staff identified an opportunity to improve non-motorized access to the Franconia-Springfield Metrorail Station from the south, including Fort Belvoir. This project will provide approximately three miles of bikeway, the majority being shared use path extending from the Fairfax County Parkway near Telegraph Road north to the south side of the Metrorail station. The southern segment could utilize portions of an abandoned railroad spur previously serving Fort Belvoir, then transition to an on-road facility on Cinder Bed Road to the roadway end, and then travel on a pathway ending at the Metrorail station.

Project Estimate:	\$4,000,000
TEP/TAP Awards to Date: Through FY 2017:	\$ 1,200,000
Local Match Pledged Through FY 2017:	<u>\$ 300,000</u>
FY 2017 Funding Total:	\$1,500,000
FY 2017 Balance:	\$2,500,000
FY 2018 TAP Request:	\$ 800,000
FY 2018 Local Match:	<u>\$ 200,000</u>
Remaining Funding Required:	\$1,500,000

2. Van Dorn Street Bicycle and Pedestrian Improvements

Reconstruct the trail extending from Oakwood Road (ramp underpass) to the Alexandria City Line to current geometric standards, including those segments under the Capital Beltway (I-95) and the railroad. Lighting and way finding signage included as needed. This is in addition to the current bridge replacement under the I-495 underpass.

Project Estimate:	\$ 4,000,000
TEP/TAP Awards to Date: Through FY 2017:	\$400,000
Local Match Pledged Through FY 2017:	<u>\$100,000</u>
FY 2017 Funding Total:	\$ 500,000
FY 2017 Balance:	\$ 3,500,000
FY 2018 TAP Request:	\$ 400,000

FY 2018 Local Match:	<u>\$ 100,000</u>
Remaining Funding Required:	\$ 3,000,000

3. Providence District Bike Share

Bike Share in the Providence District is an expanded transportation option for users of the Metrorail and Fairfax Connector who will travel to and within the Providence District. A bike share is a program of “public use” bicycles that users who have registered with the program can rent a bike for short periods of time. The bikes can be used to go from bike dock to bike dock located at activity centers and employment centers throughout the Providence District area. Capital Bikeshare, in operation in Arlington County, the City of Alexandria, and the District of Columbia, offers system users with several membership options ranging from an annual membership to daily passes. Subscribers are given an electronic key that is used for renting a bicycle. The first 30 minutes of usage are free with each additional 30 minutes escalating in cost. The stations in the Providence District will connect to the Capital Bikeshare system in Fairfax County and neighboring jurisdictions.

The capital equipment needed for a Bike Share station includes, but is not limited to, the docking stations, bicycles and kiosks. The current projection is to purchase the capital equipment for 15 stations that will support 120 bicycles. It is anticipated that the locations in the Providence District will be located along the Route 7 and Route 123 corridors in Tysons and could expand into the Mclean Metro or Pimmit Hills areas. In the Merrifield area stations could be located between the Dunn Loring Metrorail Station and the Mosaic District.

Project Estimate:	\$ 750,000
TEP/TAP Awards to Date: Through FY 2017:	\$0
Local Match Pledged Through FY 2017:	<u>\$0</u>
FY 2017 Funding Total:	\$ 0
FY 2017 Balance:	\$ 0
FY 2018 TAP Request:	\$ 400,000
FY 2018 Local Match:	<u>\$ 100,000</u>
Remaining Funding Required:	\$ 250,000

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia on Tuesday, October 18, 2016, at which meeting a quorum was present and voting, the following resolution was adopted.

PROJECT ENDORSEMENT RESOLUTION

WHEREAS, in accordance with Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the local government or state agency for the Virginia Department of Transportation to program funding for a Transportation Alternatives project,

NOW, THEREFORE, BE IT RESOLVED that the County of Fairfax requests the Commonwealth Transportation Board to provide funding for the Van Dorn Street Pedestrian and Bicycle Access Improvements; and

BE IT FURTHER RESOLVED, that the County of Fairfax hereby agrees to pay a minimum 20 percent of the total cost for planning and design, right-of-way, and construction of this project, and that, if the County of Fairfax subsequently elects to cancel this project, the County of Fairfax hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

Adopted this 18th day of October, 2016, Fairfax, Virginia

ATTEST _____
Catherine A. Chianese
Clerk to the Board of Supervisors

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia on Tuesday, October 18, 2016, at which meeting a quorum was present and voting, the following resolution was adopted.

PROJECT ENDORSEMENT RESOLUTION

WHEREAS, in accordance with Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the local government or state agency for the Virginia Department of Transportation to program funding for a Transportation Alternatives project,

NOW, THEREFORE, BE IT RESOLVED that the County of Fairfax requests the Commonwealth Transportation Board to provide additional funding for the Cinder Bed Bikeway; and

BE IT FURTHER RESOLVED, that the County of Fairfax hereby agrees to pay a minimum 20 percent of the total cost for planning and design, right-of-way, and construction of this project, and that, if the County of Fairfax subsequently elects to cancel this project, the County of Fairfax hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

Adopted this 18th day of October, 2016, Fairfax, Virginia

ATTEST _____
Catherine A. Chianese
Clerk to the Board of Supervisors

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia on Tuesday, October 18, 2016, at which meeting a quorum was present and voting, the following resolution was adopted.

PROJECT ENDORSEMENT RESOLUTION

WHEREAS, in accordance with Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the local government or state agency for the Virginia Department of Transportation to program funding for a Transportation Alternatives project,

NOW, THEREFORE, BE IT RESOLVED that the County of Fairfax requests the Commonwealth Transportation Board to provide funding for the Providence District Bike Share; and

BE IT FURTHER RESOLVED, that the County of Fairfax hereby agrees to pay a minimum 20 percent of the total cost for planning and design, right-of-way, and construction of this project, and that, if the County of Fairfax subsequently elects to cancel this project, the County of Fairfax hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

Adopted this 18th day of October, 2016, Fairfax, Virginia

ATTEST _____
Catherine A. Chianese
Clerk to the Board of Supervisors



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

Fairfax County – Transportation Alternatives Public Meeting

September 15, 2016

7:00 PM

Fairfax County Department of Transportation

4050 Legato Road, Suite 400, Fairfax, VA 22033

Minutes

I. Introductions and Summary of Meeting

Staff Introductions Made: Ken Kanownik, Coordination and Funding Division

Attendees: Sally Smallwod (FCPS), Joe Chudzik (Mason Neck Citizens), Dan Benson (Trails HOA), Jenifer Joy Madden (NoVi Trail), Peter Christensen (Trails & Sidewalk Com.)

II*. Introduction to Transportation Alternatives Program (TA)

Eligibility and Guidelines –

III*. Virginia Department of Transportation (VDOT) and TA

VDOT – Procedures
Selection Process

IV*. FY2018 TA Application – Brief Walk Through

V*. Status of Previous Grant Awards (TA only)

Mason Neck Trail
Cross County Trail (Lorton)
Cinder Bed Bikeway
Reston Bike Share
Van Dorn Street Bicycle and Pedestrian Improvements
Westbriar Elementary School – Safe Routes to School (Old Courthouse Road)

*Included in presentation

Fairfax County Department of Transportation
4050 Legato Road, Suite 400
Fairfax, VA 22033
Phone: (703) 877-5600 TTY: 711
Fax: (703) 877-5723
www.fairfaxcounty.gov/fcdot



VII. TA Question and Answer Session

- Jenifer Joy Madden suggested the County look into developing a county wide comprehensive list detailing the biggest barriers in the County that prevents children from walking to school.
- Sally Smallwood inquire about a pedestrian facility connecting Hybla Valley Elementary School to Huntley Meadows Park. FCDOT staff recommended pursuing a Recreational Trails Program Grant with the Park Authority, instead of a Safe Routes to School application, since the connection would not allow for any new households to walk to school.
- There were various questions on how to improve applications and gather public support from citizens and elected officials for which staff provided guidance.

VIII. Public Input on Project Selection

- County staff presented the four projects solicited for FY2017 applications
- There was no dissent for any of the projects.
- Jenifer Joy Madden and Dan Benson advocated for future sections of Old Courthouse Road Bicycle and Pedestrian Improvements be included in future TA applications.
 - Staff responded with a plan of action and informing the citizens that this project would be eligible as soon as the current grant award phase of Old Courthouse Road is under construction per CTB policy.
- Joe Chudzik gave an introduction on the Mason Neck Trail and provided the following feedback to the County:
 - Mr. Chudzik feels that breaking the Mason Neck Trail into too many phases delays the implementation of the project by duplicating tasks such as design and the advertisement and bid processes related to construction.
 - Mr. Chudzik would like the County to apply for additional grants for the Mason Neck Trail in future grant opportunities.
 - Staff informed Mr. Chudzik that a detail response from staff would be provided, staff wanted to compile the status of other phases of the Mason Neck Trail in the Board's Transportation Priorities Program and needed to perform some research to give a complete response.



County of Fairfax, Virginia

Transportation Alternatives Workshop and Public Comment

Fairfax County
Department of Transportation

September 15, 2016
7:00 PM





Transportation Alternatives Overview

New federal legislation was passed in December 2015 and will be effective 2016 – 2020. The legislation:

- Changed name of the Surface Transportation Program to the Surface Transportation Block Grant (STBG) program
- Established a set-aside within the STBG funding for Transportation Alternatives (TA Set-aside)
- Continued the eligibilities as set forth in MAP-21 including the same four (4) categories:
 - Transportation Alternatives activities
 - Safe Routes to School (SRTS) activities
 - Recreational Trails Program activities
 - Boulevards from Divided Highways activities



Eligible Projects

1. Construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists , and other non-motorized forms of transportation.
2. Construction, planning, and design of infrastructure-related projects and systems that will provide safe routes for non-drivers to access daily needs.
3. Conversion and use of abandoned railroad corridors for trails
4. Construction of turn-outs, overlooks, and viewing areas to promote the scenic and historic character of local roads.
5. Inventory, control, or removal of outdoor advertising.
6. Historic preservation and rehabilitation of historic transportation facilities.
7. Vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, and provide erosion control
8. Archaeological activities relating to impacts from implementation of a transportation project eligible under this title.
9. Environmental mitigation activity, including prevention and abatement activities to address storm water mgmt., control, and water pollution related to highway runoff.
10. Wildlife mortality mitigation to reduce vehicle-caused wildlife mortality or to restore and maintain connectivity among terrestrial or aquatic habitats.
11. Safe Routes to Schools Projects



Safe Routes To Schools

Eligible Activities

- Sidewalk improvements
- Traffic calming and speed reduction improvements
- Pedestrian and bicycle crossing improvements
- On-street bicycle facilities
- Off-street bicycle and pedestrian facilities
- Shared-use paths/trails
- Secure bicycle parking facilities
- Traffic Diversion improvements
- Other projects that improve ped/bike safety and access

Ineligible Activities

- Bus stop improvements
- Improvements to traffic flow/kiss and ride for motorized vehicles
- Others not related to walking or biking



SRTS Additional Requirements

- Principal letter of support
- Title-I status
- Travel modes
- Travel distance
- Parent survey
- Barriers to walking
- Efforts to promote walking/biking to school



State Allocation Formula – FY 16 Example

- FY 16 Total Funding - ~\$22.3 million
- Recreational Trails receives \$1.5 million
- \$20.8 million Balance is split 50/50
- \$10.4 million is allocated based on population with \$6.3 million to Transportation Management Associations (TMA) and \$4.1 million to other areas based on population
- The other \$10.4 million is allocated anywhere in the state, Commonwealth Transportation Board(CTB) Policy governs distribution



VDOT FY18 Schedule

- **July / August 2016** - Applicant Workshops
- **November 1, 2016** - Application Deadline
- **February 2017** – Applications and scores presented to the TMAs and CTB
- **April 2017** – Tentative Selections made by VDOT staff
- **April / May 2017** – Department Six Year Improvement Plan (SYIP) Public Hearings
- **June 2017** – Final CTB approval



Selection Process

Statewide Funds (50%)

- Will be divided amongst District CTB members for project selections – maximum \$1M per member
- The Secretary of Transportation and the CTB At-Large members will select projects with any remaining statewide funds (any funds over \$9M)





Population Based Funds (50%)

- Metropolitan Planning Organizations (MPO) will make selections in the 4 TMAs
- CTB At-Large members will select projects based on other population areas funding



FY 2018 Application Now Online

[Virginia.gov](#) [Agencies](#) | [Governor](#) [Search Virginia.Gov](#)




[Home](#) [About](#)


Welcome to SMART Portal

The SmartPortal is your one-stop-shop for submitting projects applications for various funding programs at the Virginia Department of Transportation and Department of Rail and Public Transportation. This site is where eligible entities enter, manage, and submit project applications for funding as well as identify project priorities when multiple projects are submitted. Eligible entities can use the SmartPortal for submitting project applications for SMART SCALE, Revenue Sharing, Transportation Alternatives (TA Set Aside), Highway Safety, and Bicycle/Pedestrian programs. Eligible entities desiring to submit project applications must identify one person as the Administrator for the entity (organization, agency).

The Administrator will obtain the initial Log-In credentials to obtain access, manage access for other entity personnel, and determine user access roles (edit, review, submit). The Administrator POC will oversee the creation, submission and prioritization of candidate projects for **all of the application programs**. The Administrator is also used as the default point of contact for each project application submitted. Another responsible charge individual, who will be the contact for evaluation teams and oversight agencies, may be entered on project applications.

Please Log In using your credentials.





[Login >](#)

[Forgot Password?](#)



Status of Current TAP Projects

- Mason Neck Trail
- Cross County Trail Lorton (FY 2017 Applicant)
- Cinderbed Bikeway (FY 2017 Applicant)
- Reston Bike Share
- Westbriar Elementary School SRTS
- Van Dorn Street Bicycle and Pedestrian Improvements (FY 2017 Applicant)



FY 18 Staff Proposals

- Van Dorn Street Bicycle and Pedestrian Improvements - \$400,000
- Cinderbed Bikeway - \$800,000
- Providence District Bike Share- \$400,000

With the TA local match requirements FCDOT staff can only move forward with grant applications that have an identified local cash match. Currently, staff selects projects from the Board of Supervisor's Transportation Priorities Program (TPP) that have funding already applied and would be competitive candidates for the grant. Projects outside the TPP need to have a local cash match identified before that can be applied for. Examples of other local cash match include donated Right of Way, HOA funds and District Discretionary Funds. Project advocates can also work with their supervisor's office and FCDOT to have their project included in a future approved TPP.



Open Container Funding

Bicycle and Pedestrian Safety Program

- 100% Federal Funding
- Focuses on improving safety for pedestrian and / or bicyclists along active roadways
- Must demonstrate safety need and the improvement being made
- Requires a SEPARATE application submission using the application portal – from home page select “Bike / Pedestrian Safety”
- Application deadline for TA sponsors: November 1, 2016



Open Container Funding

Open Container Project Eligibility:

- Provides pedestrian and/or bicycle safety treatment at locations with history of crashes
- Provides infra-structure that connects pedestrian/bicycle generating land uses
- Road diet that creates bicycle lanes
- Reduces conflict points between motorists, bicycles and pedestrians
- Improves the opportunity for pedestrians and/or cyclists to safely cross a roadway
- Eliminates a barrier for non-motorized traffic
- Provides separation or dedicated space for non-motorized travel along a high-speed or congested route



Open Container FY 18 Applications

- Due November 1, 2016
- Online application via Smart Portal
- FCDOT is moving forward with an application for pedestrian improvements on Pleasant Valley Road for FY 18.



Important Steps to Getting TA or OC Funding

- Schedule a field meeting with FCDOT staff and members of the community
- Participate in future Board of Supervisor's Transportation Priorities Plan updates
- Gain support from state and federal elected officials, non-profits, schools and other community groups
- Stay involved in the process throughout the year



TAP Q&A Session



Public Input

- Recommendations for Projects
- Support or Dissent on Projects
- Other Comments on Transportation Alternatives

ACTION - 4

Authorization for the Department of Transportation to Apply for Funding and Endorsement of the Virginia Department of Transportation's FY 2018 Bicycle and Pedestrian Safety Program Grant Program (Sully District)

ISSUE:

Board of Supervisors authorization is requested for the Department of Transportation to apply for funding from the Virginia Department of Transportation (VDOT) FY 2018 Bicycle and Pedestrian Safety Program (BPSP). Funding up to the amount of \$500,000 is being requested for crosswalks and connectivity along Pleasant Valley Road between Eagle Tavern Way and Ridings Manor Place (Sully District). The application requires a project endorsement resolution (Attachment 1) from the local governing body. No Local Cash Match is required. If the County is awarded funding, staff will submit another item to accept the award and execute the Standard Project Administration Agreement with VDOT.

RECOMMENDATION:

The County Executive recommends the Board of Supervisors authorize the Department of Transportation to apply for funding up to the amount of \$500,000 for crosswalks and connectivity along Pleasant Valley Road and to adopt the project endorsement resolution.

TIMING:

Board approval of the grant application and adoption of the project endorsement resolution is requested on October 18, 2016, to meet the November 1, 2016, application deadline.

BACKGROUND:

FY 2018 will be the first year of BPSP funding from VDOT. The grant program is a 100 percent grant award that focuses on improving safety for pedestrian and/or bicycles along active roadways. Each project applying for grants under this program will compete with all other projects based on a demonstrated need and the type of improvement made. The eligible project types include:

- Pedestrian and/or bicycle safety treatment at locations with history of crashes
- Infra-structure that connects pedestrian/bicycle generating land uses
- Road diet that creates bicycle lanes
- Reduces conflict points between motorists, bicycles and pedestrians
- Improves the opportunity for pedestrians and/or cyclists to safely cross a roadway
- Eliminates a barrier for non-motorized traffic
- Provides separation or dedicated space for non-motorized travel along a high-speed or congested route

Board Agenda Item
October 18, 2016

For the FY 2018 application, County staff will apply for funding up to the amount of \$500,000 for crosswalks and connectivity along Pleasant Valley Road between Eagle Tavern Way and Ridings Manor Place. Currently, there is only one crosswalk on this 1.5 mile section of Pleasant Valley Road. This project would create crossings to connect Virginia Run Elementary School, a community park and the neighborhood as a whole. It would also provide additional crossings to access the Cub Run Trail and the Virginia Run community pool.

VDOT has implemented requirements for jurisdictional sponsors (like Fairfax County) to provide technical guidance and oversight throughout project development which will be worked into the total project cost. Additionally, the sponsor must ensure that the budget accurately reflects project cost and accept responsibility for cost overruns on the project.

FISCAL IMPACT:

Grant funding up to the amount of \$500,000 is being requested from the Virginia Department of Transportation for crosswalks and connectivity along Pleasant Valley Road between Eagle Tavern Way and Ridings Manor Place. If the County is awarded funding, staff will submit another item to accept the award and execute the Standard Project Administration Agreement with VDOT. There is no Local Cash Match associated with this grant application. This grant does not allow for the recovery of indirect costs.

CREATION OF POSITIONS:

No positions will be created through this action.

ENCLOSED DOCUMENTS:

Attachment 1: Project Endorsement Resolution

STAFF:

Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Karyn Moreland, Chief, Capital Projects Sections (FCDOT)
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT
Ken Kanownik, Transportation Planner, Coordination and Funding Division, FCDOT

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia on Tuesday, October 18, 2016, at which meeting a quorum was present and voting, the following resolution was adopted.

PROJECT ENDORSEMENT RESOLUTION

WHEREAS, in accordance with Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the local government or state agency for the Virginia Department of Transportation to program funding for a Bicycle and Pedestrian Safety Program project.

NOW, THEREFORE, BE IT RESOLVED that the County of Fairfax requests the Commonwealth Transportation Board to provide funding for the Pleasant Valley Road Crosswalks; and

BE IT FURTHER RESOLVED, that the County of Fairfax hereby agrees to any cost over runs related to planning and design, right-of-way, and construction of this project, and that, if the County of Fairfax subsequently elects to cancel this project, the County of Fairfax hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

Adopted this 18th day of October, 2016, Fairfax, Virginia

ATTEST _____
Catherine A. Chianese
Clerk to the Board of Supervisors

ACTION - 5

Allocation of Tysons Grid of Streets Project Funds to the Design of Lincoln Street
(Providence District)

ISSUE:

The Department of Transportation is seeking Board approval to allocate \$1.2 million in Tysons Grid of Street project funds to design Lincoln Street.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the use of \$1.2 million Grid of Streets project funds for the design of Lincoln Street.

TIMING:

Board action is requested on October 18, 2016, to allow staff to begin the design work.

BACKGROUND:

Lincoln Street is a proposed street on the Tysons Grid of Streets map that connects Route 123 to Magarity Road. It is intersected by existing Old Meadow Road as well as three other future local streets. The portion of Lincoln Street from Old Meadow Road to Magarity Road currently has no proffers associated with the construction of the road, and none are expected in the near-medium future. Lincoln Street serves an important role, moving traffic from the existing and approved developments along Old Meadow Road (such as The Regency, The Encore, The Highland District, etc.) to Magarity Road, see Attachment 1 (map). The only other alternatives for traffic to disperse are onto Route 123, or a circuitous route to Magarity Road by way of Anderson Road.

FISCAL IMPACT:

The \$1.2 million requested from the Tysons Grid of Streets project funds is available in project 2G40-057-000, Tysons Grid of Streets Developer Contributions in Fund 30040, Contributed Roadway Improvements. There is no impact to the General Fund, and no positions are created by this funding request.

ENCLOSED DOCUMENTS:

Attachment 1: Map of Lincoln Street

Board Agenda Item
October 18, 2016

STAFF:

Robert A. Stalzer, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)

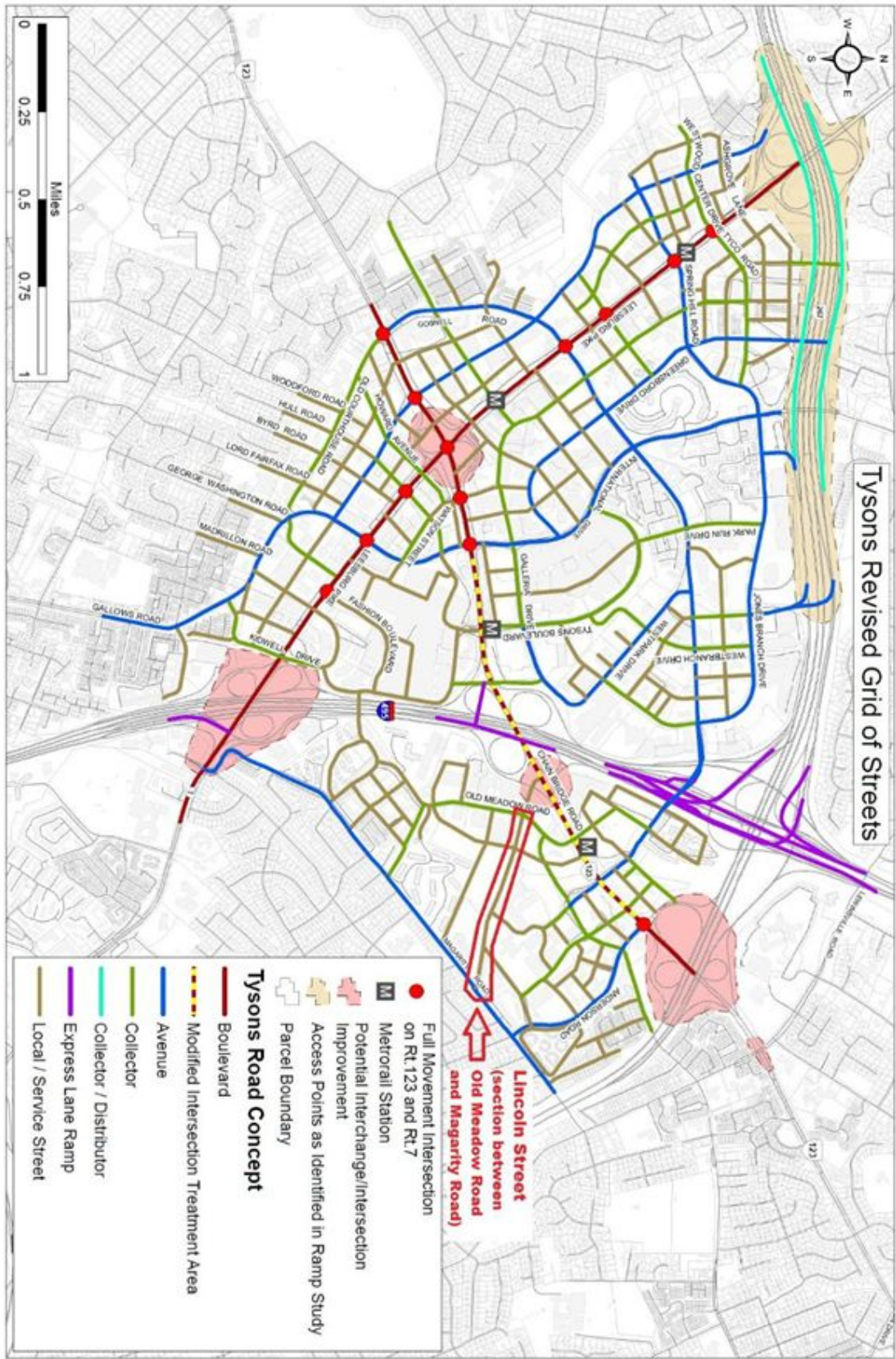
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Karyn Moreland, Chief, Capital Projects Section, FCDOT

Jeff Hermann, Transportation Planner IV, FCDOT

Ray Johnson, Transportation Planner III, FCDOT

Kenneth Kanownik, Transportation Planner II, FCDOT



ACTION - 6

Approval to Terminate the Deed of Lease for Board-Owned Property at 1311 Spring Hill Road (Dranesville District)

ISSUE:

Approval to terminate the Deed of Lease for Board-owned property at 1311 Spring Hill Road.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize staff to exercise the County's right of termination provision in the Lease for 1311 Spring Hill Road.

TIMING:

Board action is requested on October 18, 2016, to permit staff to send notice of its election to terminate the Lease by November 1, 2016, which will make such termination effective as of midnight on December 31, 2016.

BACKGROUND:

The Board of Supervisors is the owner of a five-acre parcel located at 1311 Spring Hill Road, McLean, Virginia (Tax Map Number 0291 20 C) and situated next to Spring Hill Elementary School. The property (informally referred to as Holladay Field) contains a full-sized athletic field and practice area.

On December 13, 2001, the Board entered into a Deed of Lease (Lease) with McLean Youth, Incorporated (MYI), the predecessor to McLean Youth Athletics, Inc., and hereinafter referred to as MYA, in which the Board agreed to lease Holladay Field to MYA for a five-year term beginning on January 1, 2002 and ending December 31, 2006. MYA became a year-to-year periodic tenant when the lease term expired on December 31, 2006.

On January 22, 2015, MYA and the County signed an Amendment to Lease that retroactively established the beginning of the term as July 1, 2014 and the end of the term as June 30, 2015, with automatic annual renewals of the term thereafter. The Amendment of Lease also provided that the Lease could be terminated by either party in two ways: (1) sixty-days' notice of nonrenewal of the Lease sent by May 1st of any given year, before the automatic renewal of the Lease occurred on July 1st of that year; or (2) sixty-days' notice of termination by November 1st of any given year, effective at midnight on December 31st of that year.

Board Agenda Item
October 18, 2016

Termination of the Lease will allow the County to govern the use and maintenance of Holladay Field through a Maintenance and Use Agreement similar to those in effect at other Board-owned properties.

FISCAL IMPACT:
None

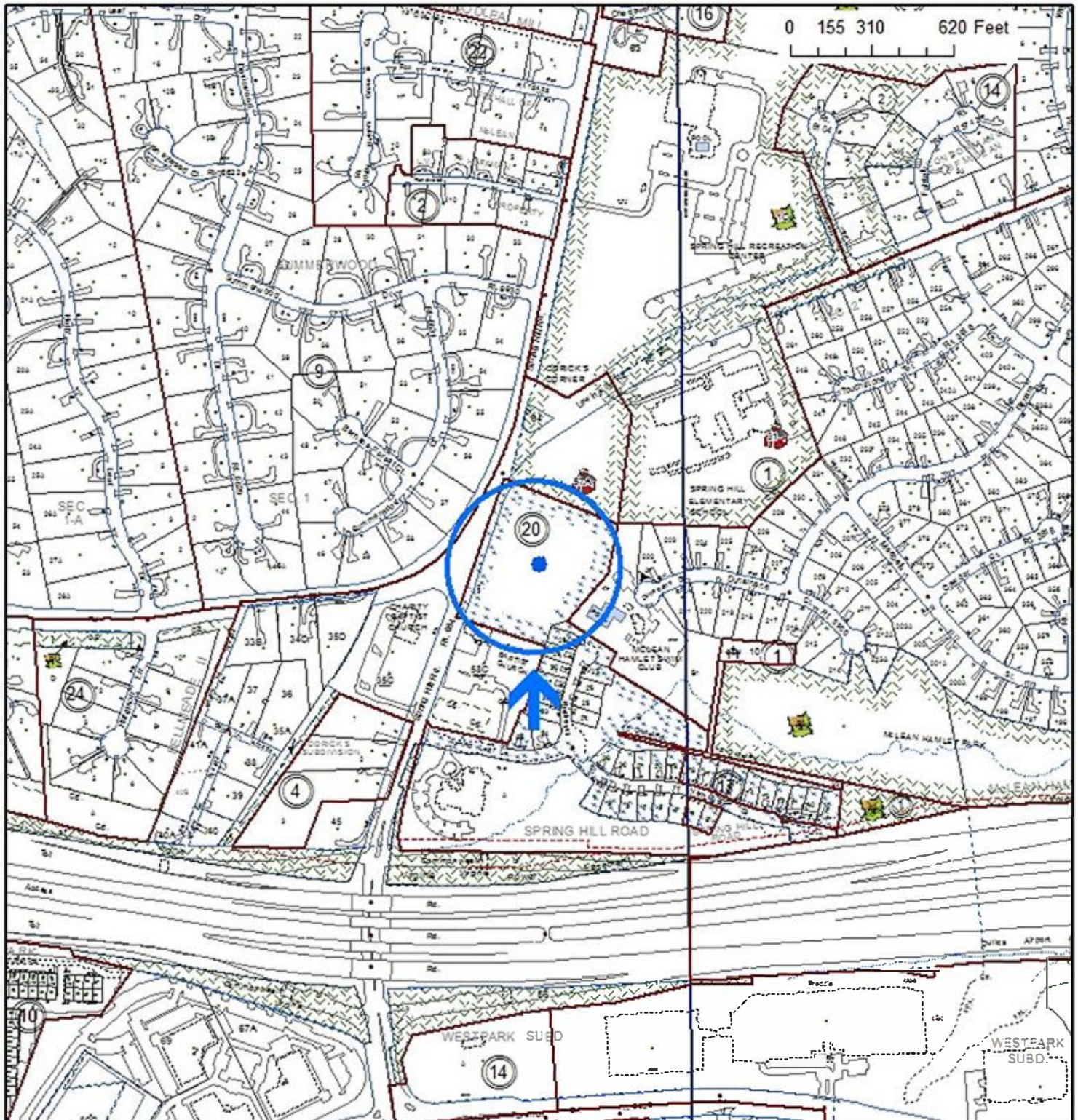
ENCLOSED DOCUMENTS:
Attachment 1 – Location Map for Holladay Field
Attachment 2 – Deed of Lease dated December 13, 2001
Attachment 3 – Amendment to Deed of Lease dated January 22, 2015

STAFF:
David J. Molchany, Deputy County Executive
Jose A. Comayagua, Jr., Director, Facilities Management Department

**Board-Owned Property at
1311 Spring Hill Road,
McLean**

**County Tax Map No.
29-1 ((20)) Parcel C**

Attachment 1



DEED OF LEASE

THIS DEED OF LEASE made this 13th day of December, 2001, by and between the BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA ("Landlord"), and the MCLEAN YOUTH INCORPORATED ("MYI" or "Tenant"), each a "Party" and collectively, the "Parties".

WITNESSETH:

1. **PREMISES:** Landlord hereby leases to Tenant a portion of the property identified by Tax Map No. 29-1-0020 Parcel C which is shown on the attached Exhibits A & B (the "Premises"). Landlord represents and warrants that it is the owner of the Premises, located at 1301 Spring Hill Road in McLean, Virginia,

2. **TERM:** This Lease is hereby granted for a term of five years beginning on the 1st day of January, 2002, and ending at midnight on the 31st day of December, 2006, unless sooner terminated pursuant to Paragraph 3. The Landlord and the Tenant agree that this Lease shall be automatically renewed annually unless notice to the contrary is given by either party 60 days prior to the end of the current term, or any annual lease renewal period, and in this event, the Lease shall become null and void at the end of the effective term. If the Lease is automatically renewed then all covenants, conditions, and terms will remain the same except as may otherwise be agreed by the parties pursuant to paragraph 16.

3. **TERMINATION:** This Lease may be terminated at any time, by either party, upon 120 days prior written notice. Provided however, if the Landlord invokes this provision prior to the third anniversary of the start of the term (prior to January 1, 2005), Landlord, during the following fiscal year budget appropriations, shall request the Board of Supervisors refund Tenant the costs of unamortized site improvements undertaken under this lease which are neither removable nor recoupable by Tenant.

4. **CONSIDERATION:** In consideration of the Tenant's use of the subject Premises, Tenant will provide sports-related activities to the community and maintain Premises in a manner satisfactory to the Landlord.

5. **USE:** The Premises are leased to the Tenant for the Tenant's use of the field for games, practices, clinics and other activities consistent with youth sports or community-related activities. The Premises shall not be sublet or assigned without the prior written consent of the Landlord.

The Tenant understands the allocation of these fields will be counted as part of its regularly assigned fields and adjustments will be made to any future Fairfax County field allocations in accordance with the Landlord's Department of Community and Recreation Services field allocation policy.

6. **CARE OF THE PREMISES:** The Premises are leased "as is" and are to be returned to the Landlord at the expiration of this Lease in as good condition as received. Subject to the terms of this Paragraph 6, Tenant shall have the right to make improvements to the Premises and the Landlord reserves the right to require the Tenant, upon the termination of the Lease, to restore the Premises to its condition as of the commencement date of the Lease term at the Tenant's expense, including, but not limited to, the removal of any improvements made by Tenant or Landlord in Tenant's stead pursuant to the terms of this Lease, and the grading and reseedling or resodding of the Premises subject to the provisions of Paragraph 3 of this Lease. The Tenant shall assume all utility expenses directly attributable to the Premises, and will pay all such final utility bills upon the termination of the Lease. The Tenant shall keep the Premises neat and clean and free from nuisances and hazards at all times during the term of the Lease.

The Tenant shall not make any modifications or alterations to the Premises without the prior written consent of the Landlord which consent shall not be unreasonably withheld. The Tenant shall submit copies of all plans, specifications, and other documentation describing any proposed modifications or alterations to the Landlord for review and approval. The Tenant is responsible for securing all permits and governmental approvals required in connection with the proposed use of the Premises.

All requests to perform any modifications or alterations to the Premises which will require that the field be taken out of service for an entire season shall be submitted to the Landlord prior to June 1st for the fall season and January 1st for the spring season of any given year that this lease remains in effect.

7. **MAINTENANCE AND REPAIR:** The Tenant shall be responsible for all maintenance (including grass seeding if needed), grass cutting and repairs, including the maintenance and repair of all improvements located on the Premises or placed on the Premises in accordance with this Lease. The Tenant shall notify the Landlord of any period during which the Premises will not be available for use due to maintenance 30 days in advance of the work.

8. **INSURANCE REQUIREMENTS:**

Liability for Damage to Personal Property and Persons: All personal property of the Tenant (including the personal property of its employees, business invitees, subtenants, customers, clients, agents, family members, guests or trespassers, etc), in and on said Premises, shall be and remain at the sole risk of the Tenant, and Landlord shall not be liable to them for any damage to, or loss of, such personal property arising from any act of any other persons. The Landlord and its officials, employees, volunteers, and agents shall not be liable for any personal injury to the Tenant (including their employees,

business invitees, subtenants, customers, clients, agents, family members, guests or trespassers, etc.) from the use, occupancy and condition of the Premises. Provided however, that nothing in this provision shall either take from or add to the rights of any individual, organization or governmental entity under the laws of the Commonwealth of Virginia.

Liability Insurance: During the Lease Term, the Tenant will maintain a policy of commercial general liability insurance insuring the Landlord and Tenant against liability arising out of the ownership, use, occupancy, or maintenance of the Premises. The insurance will be maintained for personal injury and property damage liability, adequate to protect the Landlord against liability for injury or death or any person in connection with the use, operation and condition of the Premises, in an amount of not less than ONE MILLION DOLLARS (\$1,000,000) occurrence/aggregate. The limits of the insurance will not limit the liability of the Tenant. If the Tenant fails to maintain the required insurance the Landlord may, but does not have to, maintain the insurance at the Tenant's expense. The policy shall expressly provide that it is not subject to invalidation of the Landlord's interest by reason of any act or omission on the part of the Tenant.

Tenant's Insurance Policies: Insurance carried by the Tenant will be with companies reasonably acceptable to the Landlord. The Tenant will deliver to the Landlord a certificate evidencing the existence and amounts of the insurance within thirty (30) days of the execution of this Lease. No policy shall be cancelable or subject to reduction of coverage or other modification except after sixty (60) days' prior written notice to the Landlord. Tenant shall, at least 60 days prior to the expiration of the policies, furnish the Landlord with renewals or "binders" for the policies, or Landlord may order the required insurance and charge the cost to the Tenants.

The Tenant will not do anything or permit anything to be done or any hazardous condition to exist ("Increased Risk") which shall invalidate or cause the cancellation of the insurance policies carried by the Tenant. If the Tenant commits, allows or permits any Increased Risk which causes an increase in the cost of insurance policies, then Tenant shall reimburse Landlord for additional premiums attributable to any act, omission or operation of Tenant causing the increase in the premiums. Payment of additional premiums will not excuse Tenant from terminating or removing the Increased Risk unless Landlord agrees in writing. Absent agreement, Tenant shall promptly terminate or remove the Increased Risk.

The Landlord shall be named as an "additional insured" on the commercial general liability policy and it shall be stated on the Insurance Certificate that this coverage "is primary to all other coverage the Landlord may possess."

9. INDEMNIFICATION: The Tenant hereby agrees to indemnify and hold harmless the Landlord, its officers, agents and all employees and volunteers, from any and all claims for bodily injuries and personal injuries to the public, including cost of investigation, all expenses of litigation, including reasonable attorney fees and the cost of appeals arising out of any claims or suits because of the Tenant, including his

agents, servants, employees, volunteers, invitees, guests or trespassers arising from the use, occupancy and condition of the Premises.

10. **RESTORATION:** Upon the termination of this Lease, the Tenant shall vacate the Premises and shall remove all personal property and improvements from the Premises at the Landlord's option. If the Tenant fails to vacate the Premises, and, if required by the Landlord, fails to remove any improvements and restore the Premises to its condition as of the commencement date of the Lease term by the date of the termination of this Lease, the Landlord shall have the immediate right to enter upon and take possession of the Premises, to remove any and all personal property of the Tenant and to restore the Premises to its condition as of the commencement date of the Lease term, and the Tenant shall be liable for all costs and fees reasonably incurred by the Landlord in connection therewith, including but not limited to all costs and attorney's fees incurred to enforce the Tenant's obligations hereunder.

11. **BREACH OF LEASE:** If the Tenant uses the Premises for any other purpose than herein stated, or fails to maintain the Premises in the condition herein specified, or otherwise is in breach of any provision of this Lease, and such act or breach remains uncured more than thirty (30) days (or such longer period as reasonably required) after Tenant's receipt of written notice from Landlord of such act or breach, then such act or breach shall constitute a violation of this Lease, in which case the Landlord hereby reserves the right to terminate this Lease, and is hereby expressly given the right to enter the Premises and remove any and all belongings and property of the Tenant, and thereby repossess the Premises without let or hindrance or any right of damage against Landlord by said Tenant or anyone occupying the Premises, and shall have all rights and remedies provided in paragraph 12 of this Lease.

12. **OTHER REMEDIES:** It is also understood and agreed that in case of violation of this agreement in any way by a Party, the other Party hereby reserves and hereby is expressly given the right to take any other action allowable by law for the enforcement of this agreement.

13. **ACCESS TO PREMISES:** The Tenant hereby grants to the Landlord, its agents, employees, contractors or representatives the right to enter on the Premises at any time provided that such entry does not prevent or impair Tenant from using the Premises for the purposes agreed herein.

14. **PARKING:** Premises has no on-site parking. Landlord is not responsible for obtaining and/or providing on-site or off-site parking for Tenant.

15. **NOTICES:** All notices, payments, demands and requests hereunder shall be in writing and shall be deemed to have been properly given when received by hand delivery or by United States First Class, Registered or Certified Mail, postage prepaid, and addressed to the Landlord as follows:

Fairfax County Government
Facilities Management Division
12000 Government Center Parkway
Suite 424 - Attention: Leasing Manager
Fairfax, Virginia 22035-0011

and to the Tenant as follows:

McLean Youth Incorporated

or to such other addresses as either of the parties may designate from time to time by giving written notice as herein required.

16. **MISCELLANEOUS:** This Lease represents the entire agreement between the parties and supersedes all other prior agreements, oral or written, between the parties relating to the Premises. This Lease can be amended or modified only by writing signed by both parties. If any provision of this Lease is found to be invalid by a court of competent jurisdiction, said provision shall be stricken from this Lease and all remaining terms and provision shall remain in full force and effect. This Lease is binding upon the parties, their successors and assigns.

IN WITNESS WHEREOF, each of the Parties hereto represents and warrants that it has been duly authorized to enter into this Lease and has caused this instrument to be executed by its duly authorized representative on the date first above written.

WITNESS:

LANDLORD:

THE BOARD OF SUPERVISORS OF
FAIRFAX COUNTY, VIRGINIA

Robert L. Morgan
Robert L. Morgan
Leasing Manager

By Robert A. Stalder 12-7-01

TENANT: County Executive

Myra J. King
Myra J. King

By Forrest A. Horton
MCLEAN YOUTH INCORPORATED

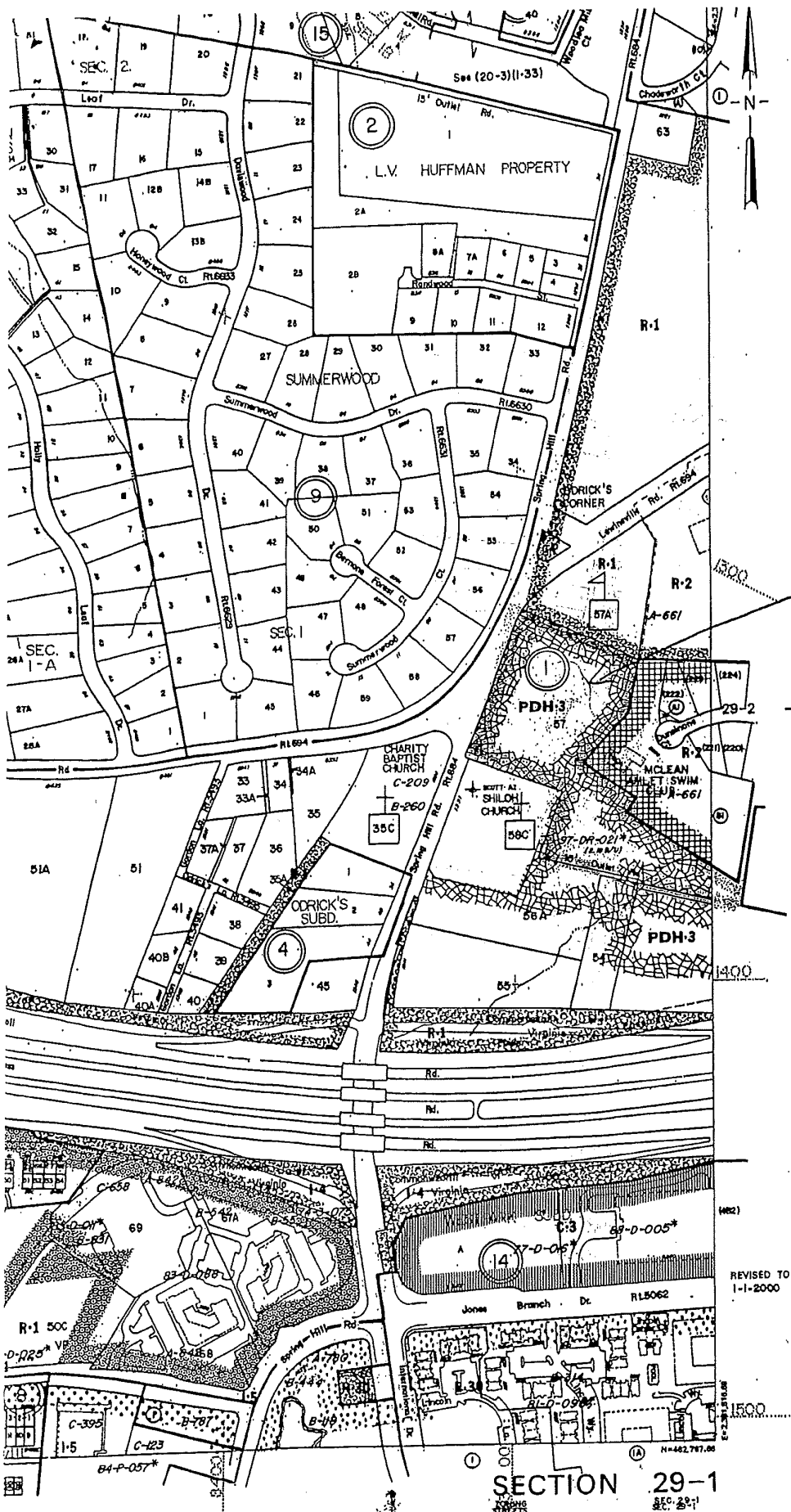


EXHIBIT A

LEASED
PREMISES

SECTION 29-1
SEC. 29-1

REVISED TO:
1-1-2000

Attachment 3

AMENDMENT TO DEED OF LEASE

THIS AMENDMENT to Deed of Lease is made and entered into this 22 day of January, 2015, by and between the BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA ("Landlord"), and McLEAN YOUTH, INCORPORATED, now known as McLEAN YOUTH ATHLETICS, INC. ("MYA" or "Tenant"); and

WHEREAS on December 13, 2001, MYA entered into a Deed of Lease with the Landlord ("Deed of Lease"), which is attached hereto and incorporated by reference into this Amendment to Deed of Lease; and

WHEREAS paragraph 16 of the Deed of Lease provides that it may be amended or modified by a writing signed by both parties; and

WHEREAS the Landlord and MYA wish to amend the Deed of Lease through this writing to adjust the term of lease to run from the 1st day of July, 2014, to the 30th day of June, 2015, rather than from January 1st to December 31st; and

WHEREAS the Landlord and MYA wish to amend the Deed of Lease through this writing to delete the 60-day notice of non-renewal provision in paragraph 2 of the Deed of Lease, and to provide instead that the Deed of Lease shall continue to automatically renew annually unless notice to the contrary is given by either party on or before May 1st of any given year that the Deed of Lease remains in effect; and

WHEREAS the Landlord and MYA further wish to amend the Deed of Lease through this writing to delete the existing termination provision in paragraph 3 of the Deed of Lease and replace it with a provision that authorizes either party to terminate the Deed of Lease, effective December 31st, by giving written notice of termination on or before November 1st of the same year; and

WHEREAS the Landlord and MYA wish to amend the Deed of Lease through this writing to correct the address in paragraph 1 of the Deed of Lease; and

WHEREAS McLean Youth, Incorporated, by Articles of Amendment admitted to record by the Clerk of the State Corporation Commission on May 21, 2004, changed the name of its corporation from McLean Youth, Incorporated, to McLean Youth Athletics, Inc.; now, therefore,

WITNESSETH:

1. The Landlord and MYA hereby mutually agree that effective July 1, 2014, the term of the Deed of Lease shall no longer run annually from January 1st to December 31st, but shall be amended to begin on the 1st day of July, 2014, and end at midnight on the 30th day of June, 2015, unless sooner terminated pursuant to the termination provision in paragraph 2 below. The 60-day notice of non-renewal provision in paragraph 2 of the Deed of Lease is hereby deleted and replaced with the notice of non-renewal provision that follows in this paragraph. The Deed of Lease shall continue to automatically renew annually unless written notice to the contrary is given by either party on or before May 1st of any given year the lease remains in effect. In the event either party provides timely, written notice of non-renewal, the Deed of Lease shall become null and void at the end of the effective term.

2. The Landlord and MYA further mutually agree that paragraph 3 of the Deed of Lease is hereby deleted and replaced with this paragraph. Either party may terminate the Deed of Lease, within any given year the Deed of Lease is in effect, by giving written notice of termination on or before November 1st. If either party provides

such timely, written notice of termination, the Deed of Lease shall terminate at midnight on December 31st of the same year.

3. The Landlord and MYA further mutually agree that the correct address of the Premises, as defined in paragraph 1 of the Deed of Lease, is 1311 Spring Hill Road, McLean, Virginia.

4. The Landlord and MYA hereby mutually agree that, by virtue of McLean Youth, Incorporated, officially changing its name to McLean Youth Athletics, Inc., the Deed of Lease and this Amendment shall be by and between the Landlord and McLean Youth Athletics, Inc.

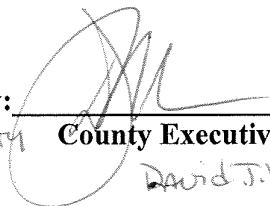
5. Except to the extent modified herein, all of the other terms and conditions of the Deed of Lease dated December 13, 2001, shall continue in full force and effect between the Landlord and MYA.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed on the date first above written.

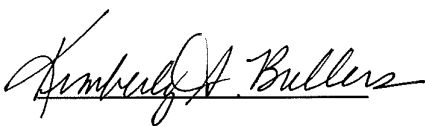
WITNESS:




**THE BOARD OF SUPERVISORS
OF FAIRFAX COUNTY, VIRGINIA**

By: 
DEPUTY County Executive
David J. McHenry

McLEAN YOUTH ATHLETICS, INC.



By: 
Joel E. Stillman, President

INFORMATION – 1

Planning Commission Action on Application 2232-D16-28, School Board of the City of Falls Church

On Wednesday, September 14, 2016, the Planning Commission voted 8-0-1 (Commissioner Flanagan abstained, and Commissioners Hedetniemi, Lawrence, and Strandlie were absent from the meeting) that 2232-D16-28 met the criteria of character, location, and extent, as specified in Section 15.2-2232 of the Code of Virginia and is substantially in accord with the provisions of the adopted Comprehensive Plan based on the following:

- The applicant's expressed commitments to the following:
 - Mount Daniel Elementary School will be limited to a maximum capacity of 660 students;
 - After expansion, Mount Daniel Elementary School will be approximately 79,491 square feet and the applicant has agreed not to initiate any reductions in land area;
 - Mount Daniel Elementary School will be limited to a maximum height of 41 feet and will provide 105 parking spaces in the redesigned and expanded parking area; and
 - Mount Daniel Elementary School will remove all existing trailers from the property once construction has been completed and will thereafter prohibit any trailers, modular buildings, or the like from being placed on the property.
- Further, based on the applicant's commitment to fully implement the following four traffic management measures:
 - Bus and vehicle queues shall be accommodated on-site;
 - Classes shall not begin earlier than 8:50 a.m. and not end later than 4 p.m.;
 - Prior to each school year, the applicant shall send a letter to all parents of children enrolled at the school to strongly encourage bus ridership and to advise them not to park on North Oak Street and to park only on school property for school related trips; and

Board Agenda Item
October 18, 2016

- The applicant shall hold no more than 10 evening special events per year at the school and shall provide shuttle bus service from an off-site location in the city of Falls Church for parents to attend all such events.

This approval does not contemplate any increase in the intensity of this use or any breach of these commitments. Consequently, no further expansion will be permitted without a subsequent 2232 or other required approval.

Application 2232-D16-28 sought to expand the Mount Daniel Elementary School facility, located at 2328 North Oak Street, Falls Church. Tax Maps 40-4 ((1)) 22, 40-4 ((15)) A, 40-4 ((19)) (A) 41. Area II. Dranesville District.

ENCLOSED DOCUMENTS:

Attachment 1: Verbatim excerpt

Attachment 2: Vicinity map

STAFF:

Robert A. Stalzer, Deputy County Executive

James Patteson, Director, Department of Public Works and Environmental Services

Fred R. Selden, Director, Department of Planning and Zoning (DPZ)

Chris Caperton, Public Facilities Branch Chief, Planning Division, DPZ

Jill Cooper, Executive Director, Planning Commission Office

2232-D16-28 – SCHOOL BOARD OF THE CITY OF FALLS CHURCH

Decision Only During Commission Matters
(Public Hearing held on July 21, 2016)

Commissioner Ulfelder: Before we move toward a motion, after the – we had the public hearing on July 21st and on the 28th we further deferred the decision on the Mount Daniel Elementary School 2232. And some additional information had been submitted and I wanted to make sure that all of the Commissioners that had an opportunity to see that. There was an addendum to the original traffic study, a second memo from the County Department of Transportation for reviewing that addendum and there was a letter from the attorney for the applicants concerning commitments and how those commitments might be maintained going forward so that there is certainty as to what is going to – what would occur on this property if we – if we agree with staff's recommendation. And so I just wanted to see, I have no questions, but I wanted to see if any of the Commissioners may have any questions. We have staff here from DOT and the staff that analyzed this application and before I begin I just wanted to see if anyone has any questions.

Chairman Murphy: Ms. Hurley.

Commissioner Hurley: Thank you, Mr. Chairman. For the transportation, I'm still unclear on why an alternate path that's right-in only will not work. I read the analysis with something about you'd have to change the intersection or add a turn lane or something. I'm just looking for more details on why a right lane in, circle around the school and then exit via the existing road, which would cut the amount of traffic on the existing road and make it one way out. Could I have somebody from Transportation explain why that would not work?

Kristin Calkins, Transportation Planner, Department of Transportation: Kirstin Calkins, Department of Transportation. We haven't investigated that in detail, the information that the Wells memo addressed were the two other access points that had been asked about at the previous Planning Commission hearing. From a grade and amount of coverage that would be associated with that, I think it might be difficult for the school to accommodate a right-in from Mount – from North Highland and then circle around the school to connect to the existing parking lot. It would require a decent amount of re-sloping and grading of the sight; however, we have not investigated that and that was not an option in the review of the memo provided by Wells.

Chairman Murphy: Okay, anyone else?

Commissioner Sargeant: Mr. Chairman?

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: Quick question, just as – as a form of summary of what you've detailed analysis, in terms of traffic and other issues, but I'm wondering if we get a brief summary of what actions, if any, have been initiated following the public hearing in terms of traffic

mitigation, off-site parking. I see the study it would be helpful, I think, if we could see a summary of additional actions, if any, that have been taken to address the issues.

Chairman Murphy: Before we – do we go on verbatim? We're on verbatim. The reader's digest version would be appreciated.

Commissioner Ulfelder: Well, I think that the September 13th letter from Mr. McGranahan discusses the points as to the commit – some of the commitments concerning traffic management. Specifically, he is talking about the, about. I think it's a two part answer. I think the Wells study and the Wells addendum show that there will not significant traffic problems on North Oak as a general rule at the proposed new daily enrollment of not exceeding 660 students. And then I think that you combine that with the fact that they are building and expanding the parking lot and, as part of that, are building an area for better queuing of buses and separate kiss-and-ride drop off for private vehicles as well. And they are agreeing to – they are committing to certain hours for – for the school operations, which put them in a slightly different place in relation to rush hour traffic, both in the p.m. and in the – in the a.m. and the p.m. They are going to be make – they - they've offered a commitment concerning parents on the number of students who will be arriving by buses and when parents do come for school-related appointment or whatever they will have to park or they should be parking on the school grounds, not on North Oak. There are a number of these that are sort of listed in the letter and they are also actually part of the – the material that was submitted as part of the overall plan for the 2232. The plan goes into great detail, far more than we usually get with a 2232, as to what commitments the city and the school board are willing to make in connection with the operation of the school on this site.

Commissioner Sargeant: Thank you Mr. Chairman.

Chairman Murphy: Mr. Ulfelder.

Commissioner Ulfelder: Okay, thank you Mr. Chairman. As I mentioned, on July 21st we held a public hearing on the Falls Church City Public School Board's latest proposal to renovate and expand the Mount Daniel Elementary School which is a city school located in Fairfax County. On July 28th, I moved that we defer the decision to this evening to give us time to consider all of the information and testimony presented at the hearing. As well as to address the questions and issues raised by members of the Planning Commission and the speakers. Since the public hearing the applicant has submitted additional material concerning the possible impacts of the proposed expansion of up to 660 students, a further reduction from the 742 originally requested with the current application, as well as information about any additional access route to the school. In addition, the applicant has submitted a letter indicating its strong and enforceable commitment to limit the scope of requested approval under 2232 and to include in that scope certain terms including traffic management measures. As the Commissioners are aware, the applicant has traveled a long road to get to this evenings decision. Indeed a similar application to expand Mount Daniel came before us last year – from my view, the applicant has materially improved its proposal. Most significantly, the applicant reduced its proposed capacity from 792 students in last year's application to 742 students in the current application, with a further reduction to 660 students. These reductions were based, in part, on a traffic analysis completed for the applicant by Wells and Associates, supplemented by an addendum based on the further reduction to 660

2232-D16-28 – SCHOOL BOARD OF THE CITY OF FALLS CHURCH

students, looking at the possible impacts of the proposed expansion on the surrounding area as well as North Oak Street, the sole access road for the school. The applicant also reduced the maximum building height from 60 feet to 41 feet and reduced the overall FAR from 0.29 to 0.25. While reducing its overall intensity from the previous application, the applicant has still committed to provide a 105 parking spaces at the school in an effort to minimize any need for school personnel or visitors to park on North Oak Street. I commend the applicant for its efforts to address many of the concerns raised last year. To put the application in perspective, Mount Daniel has been in the present location since 1952. While the surrounding area and the school have grown, the school has maintained mature trees and considerable vegetation that serve as a buffer between itself and the nearby homes. The applicant has committed to maintain this vegetation to the greatest extent possible, which is in keeping with Plan guidance. To recap some of the essential features of this proposal, the current school enrollment is around 348 students, although that number has been as high as 421. The school is served by a 44,118 square-foot building and two trailers. The application now proposes to add an additional 35,720 gross square feet to the structure with up to three stories in one portion of the building and a maximum building height of 41 feet. If approved, the expansion would increase the floor area ratio on the site from 0.14 to 0.25. Staff points out that under the Zoning Ordinance, a public school in the R-4 District could be up to 60 feet in height with a 0.35 FAR, although it is doubtful that they could achieve that maximum on this site. The applicant has committed to remove the existing trailers once construction is complete and it will prohibit installation of any future trailers. The existing parking lot will be redesigned and expanded from 64 spaces to 105 spaces, with improved circulation to allow for a kiss-and-ride drop off area, increased on-site vehicle stacking capacity and separate bus and vehicle travel ways. The Commission is charged with determining whether the location, character and extent of the applicant's proposal are substantially in accord with the Comprehensive Plan. Staff prepared a thorough report recommending approval and I agree with staff's recommendation. I won't restate everything set out in the report, but I will briefly address the reasons I believe that this application conforms to the Plan. As to location, the analysis is fairly straightforward in that the school has existed at this location since 1952. The school particularly satisfies Plan guidance to site elementary schools in or on the periphery of residential areas. Likewise, as to character, the Comprehensive Plan depicts a school at this location and indeed the Plan encourages locating students in residential districts as long as any adverse impacts can be appropriately mitigated. The applicant has included great detail on its plan and in its application, far beyond that typically included in 2232 application, much of which is intended to mitigate the impact of the proposed expansion. It is, of course, the extent of the proposed expansion that is mainly at issue this evening. In determining the extent of the proposed facility - whether the extent of the proposed facility is substantially in accord with the terms of the Comprehensive Plan, I reviewed the provisions cited in the staff report. Objectives 2 and 3 of the Public Facilities Section of the Policy Element of the Comprehensive Plan are directed at maintaining facilities in accord with expected levels of service objectives and balancing the provision of public facilities with growth and development. As a result of recent and anticipated growth in the number of students and the need for additional capacity, the applicant is seeking to expand this public facility to help meet that need. At the same time, to mitigate impacts on the adjacent neighborhood, as directed by Objective 4, the applicant reduced this proposed expansion in order to mitigate traffic impacts on the neighborhood. The applicant has also committed to providing four specific management measures to help minimize the traffic impact on the North Oak Street residents. To further mitigate any visual impacts, the proposed

2232-D16-28 – SCHOOL BOARD OF THE CITY OF FALLS CHURCH

expansion would raise the building's height to only 41 feet, which is only 6 feet higher than some of the neighboring houses. And even this increase would only be to a portion of the building, the rest would remain at its current height. I also reviewed Objective 10, which encourages full utilization of existing student facilities whenever possible and reasonable, to support educational and community objectives. Even though this is a public school of a neighboring jurisdiction, it is still a public school and has been deemed a public use. In considering the educational needs of the city's growing student population, the city must provide a place for each child from the jurisdiction. Expanding the existing Mount Daniel Elementary School is certainly one way to fully utilize the facility and meet the city's legal obligation. More specifically, Objective 10, policy a, states that schools should build additions appropriate to minimize the need for new facilities and that is exactly what the Falls Church City School Board proposes to do. We also heard testimony from the chairman of the city school board, the mayor, and Mount Daniels principal, in addition to the applicant's attorney, all of whom committed on the record to abide by and enforce the detailed limitations in the application. Therefore, given the detailed application, the plan notes, the express commitments made on the record, my review of the Plan and the recommendation of staff I MOVE THAT THE PLANNING COMMISSION FIND THAT THE LOCATION, CHARACTER AND EXTENT OF 2232-D16-28, TO BE IN SUBSTANTIAL ACCORD WITH THE ADOPTED COMPREHENSIVE PLAN BASED ON THE FOLLOWING GROUNDS:

FIRST, BASED ON THE APPLICANT'S EXPRESSED COMMITMENTS TO THE FOLLOWING LIMITED SCOPE, AS REFLECTED IN THE SEPTEMBER 13TH, 2016, LETTER FROM THE APPLICANT'S COUNSEL SUBMITTED FOR RECORD:

1. MOUNT DANIEL ELEMENTARY SCHOOL WILL BE LIMITED TO A MAXIMUM CAPACITY OF 660 STUDENTS;
2. AFTER EXPANSION, THE SCHOOL WILL BE APPROXIMATELY 79,491 SQUARE FEET AND THE APPLICANT HAS AGREED NOT TO INITIATE ANY REDUCTIONS IN LAND AREA;
3. THE SCHOOL WILL BE LIMITED TO A MAXIMUM HEIGHT OF 41 FEET AND WILL PROVIDE 105 PARKING SPACES IN THE REDESIGNED AND EXPANDED PARKING AREA; AND
4. THE SCHOOL WILL REMOVE ALL EXISTING TRAILERS FROM THE PROPERTY ONCE CONSTRUCTION HAS BEEN COMPLETED AND WILL THEREAFTER PROHIBIT ANY TRAILERS, MODULARS OR THE LIKE FROM BEING PLACED ON THE PROPERTY.

FURTHER, BASED ON THE APPLICANT'S COMMITMENTS TO FULLY IMPLEMENTING THE FOLLOWING FOUR TRAFFIC MANAGEMENT MEASURES ALSO REFLECTED IN THE LETTER:

1. BUS AND VEHICLE QUEUES SHALL BE ACCOMMODATED ON-SITE;

2232-D16-28 – SCHOOL BOARD OF THE CITY OF FALLS CHURCH

2. CLASSES SHALL NOT BEGIN EARLIER THAN 8:50 A.M. AND NOT END LATER THAN 4 P.M.;
3. PRIOR TO EACH SCHOOL YEAR, THE APPLICANT SHALL SEND A LETTER TO ALL PARENTS OF CHILDREN ENROLLED AT THE SCHOOL TO STRONGLY ENCOURAGE BUS RIDERSHIP AND TO ADVISE THEM NOT TO PARK ON NORTH OAK STREET AND TO PARK ONLY ON SCHOOL PROPERTY FOR SCHOOL RELATED TRIPS; AND
4. THE APPLICANT SHALL HOLD NO MORE THAN 10 EVENING SPECIAL EVENTS PER YEAR AT THE SCHOOL AND SHALL PROVIDE SHUTTLE BUS SERVICE FROM AN OFF-SITE LOCATION IN THE CITY OF FALLS CHURCH FOR PARENTS TO ATTEND ALL SUCH EVENTS.

THIS APPROVAL DOES NOT CONTEMPLATE ANY INCREASE IN THE INTENSITY OF THIS USE OR ANY BREACH OF THESE COMMITMENTS. CONSEQUENTLY, I FURTHER MOVE THAT NO FURTHER EXPANSION WILL BE PERMITTED WITHOUT A SUBSEQUENT 2232 OR OTHER REQUIRED ZONING APPROVAL.

Commissioner Migliaccio: Second.

Chairman Murphy: Second the motion. Okay, Mr. Migliaccio seconded the motion. Is there a discussion of the motion?

Commissioner Flanagan: Yes, Mr. Chairman.

Chairman Murphy: Yes, Mr. Flanagan.

Commissioner Flanagan: Yes, I – first of all I'd like to compliment Commissioner Ulfelder for the talent that he brought forward in coming up with a resolution that is itemized in the motion that tonight, which I've seen for the first time. But I will not be able to support the resolution and, for two reasons. First of all, my sympathies lie with the 33 percent of the citizens of Falls Church who would like to have their school within the attendance area rather than on the edge. And the reason why I say that is because I have good reason since in Mount Vernon we have the only school in Fairfax County that's not located in its attendance area. And that has had a detrimental effect upon the students who attend that school. They are 100-percent bused. None of them can walk to their school and so consequently, I'm working at the present time to see to it that, that school is relocated back within its attendance area. Secondly, I have – and I think that the 33 percent would be quickly joined with others were that pursued as having it relocated within the city. Second, I have seen no evidence put forth by anybody that the current – we had a lot of people here testifying on Oak Street – that the traffic on there was terrible with the current population and I've seen nothing that says that adding students to the population will improve that in any way. I've seen no way – there's nobody suggested how that stretch of roadway is going to be improved with this additional traffic. So there's been, you know, encouraging students to go by bus rather than private car, but that's encouraging. That doesn't assure anything

2232-D16-28 – SCHOOL BOARD OF THE CITY OF FALLS CHURCH

really. So, I think it's rather weak in that regard so I will be, I'm not going to vote against this motion, but I am going to abstain.

Chairman Murphy: Further discussion? Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. This has been a difficult case for all concerned and I think we recognize that this is a very unique situation where we have a school site that's owned by an adjacent jurisdiction within the County. There is a lot at stake for a lot of people depending on what we do. I think three of us were here 10 or 15 years ago when we did the last expansion of the school and I think I still remember how long it took to do that and how difficult and painful that was. I want to commend Commissioner Ulfelder for a very thorough and careful review and consideration of what do we do with a situation like this. I am going to support the motion, I want – I want to make a couple observations as well. I think the most problematic aspect of the application, at least as of now, is just the extent component of location, character and extent. But - and I think it's a very close call - but I've satisfied myself that in this unique situation, we can view the extent of the application not as what was originally requested perhaps, but as more narrowly defined by what the applicant has settled on with these specific limitations or constraints on the number of activity – on the amount of activity. And to that extent, I think staff concurs with that assessment and I'm going to – I'm going to support that. It concerned me a year ago, very much, and I think I wasn't the only one, that there was an apparent disconnect between the expectations of the applicant about what they could do on their property and our responsibility for review and recommendations about every site in Fairfax County no matter who the owner was. I think that given where we've come down on this, the site is probably maxed out. I think it would be very difficult to conceive of a situation where any more intensity would go on this site. And I think some of the Falls Church folks - the decision makers are listening tonight - I would suggest, this is just my own personal view, but I think it behooves the Falls Church decision makers to come up with a long range plan that anticipates the limitations of this site and that further expansion of this site is not something to be taken for granted. It's not something that is going to be easy and it shouldn't be expected that it can be done in a short time frame or – or – or just for the asking. I – I would point out, as well, a week from tomorrow we have an ordinance amendment coming up which would make this application, or ones like it – I shouldn't say this application – but applications in this category and we haven't decided what to do on that ordinance amendment, but they will become, if the ordinance amendment passes, a special exception rather than a 2232 so we wouldn't be doing this anyway. We would be doing it as an, as an SE. And that may be a further reason to expect that – there's got to be a long range plan for something else, somewhere else that doesn't depend on this site being further intensified. I think we want to be good neighbors and we have to work together to do that and that – that takes, I think, some understanding that this site can only give so much. There is only so much you can put on Oak Street and I think we are probably at that point. But I am going to support the motion for tonight. Thank you.

Chairman Murphy: Ms. Hurley.

Commissioner Hurley: Sorry, the microphone won't go on. Let me use my neighbors here, they – okay I got it. I will try to be concise. I am disappointed that the right-in only was not investigated more thoroughly and it might not work but I would still wish it had been investigated more

2232-D16-28 – SCHOOL BOARD OF THE CITY OF FALLS CHURCH

thoroughly. I also will support the motion tonight, but I wish that this letter dated yesterday from Mr. McGranahan had been a bit more specific in its commitments for specific points. It says that, “the school system – the school will not initiate a reduction in land area.” I’d like to say, “initiate or support a reduction in land area.” It says – that last point is, “All temporary classrooms and construction trailers shall be removed. No new trailers or modular or the like should be permitted.” Well, what about storage sheds? What about air condition – other things that might be built? I’d like to see more specific – I wish there had been more specifics. Third point says that, “There will be more than 10 special evening events.” What are special events? Okay, back to school night, obviously, but what about PTA meetings? What about other evening events? Just be more specific on special events. And the fourth one, on the community use, we actually – in Fairfax County – we do use our elementary schools for community use. The soccer fields are used, gyms are used, et cetera. I’d like to see – I wish there had been more specifics but we just received this letter today so I didn’t have a chance to comment, but I will support the motion.

Chairman Murphy: Further discussion? Okay, all those in favor of the motion to approve 2232-D16-28, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Flanagan: I abstain.

Chairman Murphy: There is one abstention, Mr. Flanagan. Thank you very much.

//

(The motion carried by a vote of 8-0-1. Commissioner Flanagan abstained. Commissioners Hedetniemi, Lawrence and Strandlie were absent from the meeting.)

TMW

PLANNING DETERMINATION

Section 15.2 -2232 of the Code of Virginia Attachment 2



Number: 2232-D16-28

Acreage: Approx. 7.31 ac.

District: Dranesville

Tax Map ID Number: 40-4 ((1)) 22; 40-4 ((15)) A;
40-4 ((19)) (A) 41

Address: 2328 North Oak Street
Falls Church, VA 22046

Planned Use: Public Facilities,
Governmental and Institutional

Applicant: School Board of the City of Falls Church, VA

Proposed Use: Public School Expansion



500 FEET

PREPARED BY THE DEPARTMENT OF PLANNING AND ZONING
USING FAIRFAX COUNTY GIS



Board Agenda Item
October 18, 2016

10:30 a.m.

Matters Presented by Board Members

11:20 a.m.

CLOSED SESSION:

- (a) Discussion or consideration of personnel matters pursuant to Virginia Code § 2.2-3711(A) (1).
 - (b) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A) (3).
 - (c) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Virginia Code § 2.2-3711(A) (7).
-
- 1. Application of Washington Gas Light Company to Increase Rates, PUE-2016-00001 (Va. State Corp. Comm'n) (All Districts)
 - 2. Verizon, Virginia, Inc., Underpayment of Cable Franchise Fees, and Coxcom, LLC, d/b/a Cox Communications, Underpayment of Cable Franchise Fees and Public, Educational, and Governmental Access Grants
 - 3. *Cheri Zosh v. Fairfax County, Virginia*, Case No. 1:16cv910 (E.D. Va.)
 - 4. U.S. Department of Justice Investigation of Sexual Harassment Charge of Jimmy Son La (Department of Vehicle Services)
 - 5. *Harrison Neal v. Fairfax County Police Department and Colonel Edwin C. Roessler, Jr.*, Case No. CL-2015-0005902 (Fx. Co. Cir. Ct.)
 - 6. *Victor Vega v. Larry Collins, Fairfax County Board of Supervisors, Fairfax County Police Department, Fairfax County Department of Risk Management, and Colonel Edwin C. Roessler Jr.*, Case No. CL-2015-0017926 (Fx. Co. Cir. Ct.)
 - 7. *Tarsha S. Warren v. Officer Ryan Wever*, Case No. CL-2016-0006020 (Fx. Co. Cir. Ct.)
 - 8. *Mirsada Karalic-Loncarevic, by GEICO, subrogee v. Jeffrey Dion Cox*, Case No. GV16-018480 (Fx. Co. Gen. Dist. Ct.)
 - 9. *State Farm Mutual Automobile Insurance Company as subrogee of Elizabeth Scott v. Alberto Hernan Reyes Perez and Gary Moore, Jr.*, Case No. GV16-007894 (Fx. Co. Gen. Dist. Ct.)

10. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Beverly K. Lester*, Case No. CL-2016-009115 (Fx. Co. Cir. Ct.) (Braddock District)
11. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia and Leslie B. Johnson, Fairfax County Zoning Administrator v. Shepherd Scott and Marquette J. Scott*, Case No. CL 2016-0007733 (Fx. Co. Cir. Ct.) (Braddock District)
12. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Michael Katrivanos*, Case Nos. GV16-018345 and GV16-018346 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
13. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Jose Orellana*, Case Nos. GV16-018734 and GV16-018756 (Fx. Co. Cir. Ct.) (Braddock District)
14. In re: July 27, 2016, Decision of the Board of Zoning Appeals of Fairfax County, Virginia; Case No. CL-2016-0012044 (Fx. Co. Cir. Ct.) (Dranesville District)
15. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Shaw M. Tajzai*, Case No. CL-2016-0013141 (Fx. Co. Cir. Ct.) (Lee District)
16. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Santos E. Gomez and Llecica E. Pulex Perez*, Case No. CL-2016-0004086 (Fx. Co. Cir. Ct.) (Lee District)
17. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Manzoor Ul Haq Sheikh and Shagufta A. Sheikh*, Case No. CL-2013-0009607 (Fx. Co. Cir. Ct.) (Lee District)
18. *James W. Patteson, Director, Fairfax County Department of Public Works and Environmental Services, and Brian J. Foley, Fairfax County Building Official v. David J. Laux and Tara K. Laux, a/k/a Tara K. Long*, Case No. CL-2015-0007970 (Fx. Co. Cir. Ct.) (Mason District)
19. *David J. Laux and Tara K. Laux, a/k/a Tara K. Long v. James W. Patteson, Director, Fairfax County Department of Public Works and Environmental Services, and Brian J. Foley, Fairfax County Building Official*, Case No. CL-2016-0009340 (Fx. Co. Cir. Ct.) (Mason District)
20. *Landmark Homeowners Association, Mark E. Fraser, and Deborah J. Fraser v. Board of Supervisors of Fairfax County, Virginia*, Case No. CL-2016-0009836 (Fx. Co. Cir. Ct.) (Mason District)

21. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Juan F. Hernandez and Maria Hernandez*, Case Nos. GV16-018343 and GV16-018344 (Fx. Co. Gen. Dist. Ct.) (Mason District)
22. *Commissioner of Highways of Virginia v. Mitesh Amin, The Board of Supervisors of Fairfax County, Virginia, and American Tower, L.P.*, Case No. CL-2014-0011771 (Fx. Co. Cir. Ct.) (Mount Vernon District)
23. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Manoj Kumar Ramnani, Ria Ramnani, and Apex Custom Pools LLC*, Case No. CL-2016-0012298 (Fx. Co. Cir. Ct.) (Springfield District)
24. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Stuart E. Supinger and Judy C. Supinger*, Case No. CL-2016-0011132 (Fx. Co. Cir. Ct.) (Sully District)
25. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Steven C. Bryant*, Case No. CL-2009-0005546 (Fx. Co. Cir. Ct.) (Sully District)
26. *Leslie B. Johnson, Fairfax County Zoning Administrator v. James G. Miller, Trustee of the James G. Miller Living Trust, and Atlantic Construction Fabrics, Inc.*, Case No. CL-2009-0002430 (Fx. Co. Cir. Ct.) (Sully District)
27. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Chom Sun Cholihan*, Case No. CL-2013-0012453 (Fx. Co. Cir. Ct.) (Sully District)
28. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. John M. Mitchell and Sandra Dawn Mitchell*, Case Nos. GV16-007972, GV16-007973, GV16-007974, and GV16-007975 (Fx. Co. Gen. Dis. Ct.) (Sully District)
29. *Board of Supervisors of Fairfax County v. Target Marble & Granite, LLC*, Case No. GV16-019559 (Fx. Co. Gen. Dist. Ct.) (Braddock, Mason, Springfield, and Sully Districts)
30. *Board of Supervisors of Fairfax County v. Bruce & Tanya and Associates*, Case No. GV16-019560 (Fx. Co. Gen. Dist. Ct.) (Braddock, Lee, Mason, Mount Vernon, and Springfield Districts)

Board Agenda Item
October 18, 2016

3:00 p.m.

Decision Only on PCA B-715 (L & F Bock Farm, LLC) to Amend the Proffers for RZ B-715, Previously Approved for Residential Use, to Permit Deletion of Land Area, Located on Approximately 4.38 Acres of Land Zoned PDH-5 (Mount Vernon District) (Concurrent with RZ 2015-MV-015 and SE 2015-MV-030)

and

Decision Only on RZ 2015-MV-015 (L & F Bock Farm, LLC) to Rezone from PDH-5 to R-8 to Permit Independent Living Facilities and Modification of the Minimum District Size Requirements with a Total Density of 29.22 Dwelling Units per Acre, Located on Approximately 4.38 Acres of Land (Mount Vernon District) (Concurrent with PCA B-715 and SE 2015-MV-030)

and

Decision Only on SE 2015-MV-030 (L & F Bock Farm, LLC) to Permit Independent Living Facilities, Located on Approximately 4.38 Acres of Land Zoned PDH-5 and Proposed as R-8 (Mount Vernon District) (Concurrent with RZ 2015-MV-015 and PCA B-715)

This property is located at approximately 0.1 mile SouthWest of the Intersection of Hinson Farm Road and Parkers Lane. Tax Map 102-1 ((1)) 3C (part).

Decision Only was deferred until October 18, 2016, by the Board of Supervisors at the September 20, 2016 meeting.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 13, 2016, the Planning Commission voted 10-0 (Commissioners Lawrence and Murphy were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA-B-715;
- Approval of RZ 2015-MV-015, subject to the proffers contained in Appendix 1 of the Staff Report;
- Approval of SE 2015-MV-030, subject to the proposed Development Conditions contained in Appendix 2 of the Staff Report; and

Board Agenda Item
October 18, 2016

- Approval of the following waivers and modifications:
 - Modification of Section 3-806 of the Zoning Ordinance for a 5 acre minimum district size to permit 4.38 acres;
 - Modification of the age requirement listed in Paragraph 1 of Section 9-306 of the Zoning Ordinance from 62 years of age to 55 years of age;
 - Waiver of the direct access requirement to a collector street or a major thoroughfare in Paragraph 9 of Section 9-306 of the Zoning Ordinance;
 - Modification of the maximum building height listed in Paragraph 9 of Section 9-306 of the Zoning Ordinance from 50 feet to 55 feet;
 - Modification of the eastern minimum side yard requirement contained in Paragraph 10A of Section 9-306 from 50 feet to 41 feet;
 - Modification of the minimum front yard requirements contained in Paragraph 10B of Section 9-306 of the Zoning Ordinance from 30 feet to 25 feet;
 - Modification of the transitional screening and barrier requirements in Sections 13-303 and 13-304 of the Zoning Ordinance to permit landscaping and barriers as shown on the GDP/SE Plat; and
 - Modification of the required loading space requirement listed in Section 11-203 of the Zoning Ordinance.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:

<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Laura Arseneau, Planner, DPZ

Board Agenda Item
October 18, 2016

3:00 p.m.

Decision Only on SE 2015-MV-019 (Charles County Sand & Gravel Company, Inc.) to Permit Heavy Industrial Use (Concrete Batching Plant), Located on Approximately 5.23 Acres of Land Zoned I-6 (Mount Vernon District)

This property is located at 9520 Gunston Cove Road, Lorton, 22079. Tax Map 107-4 ((1)) 62A.

Decision Only was deferred until October 18, 2016, by the Board of Supervisors at the September 20, 2016 meeting.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, June 16, 2016, the Planning Commission voted 6-4 (Commissioners Hedetniemi and Lawrence were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of SE 2015-MV-019, subject to the approval of the proposed Development Conditions dated March 8, 2016; and
- Approval of a modification of Sections 13-303 and 13-304 of the Zoning Ordinance for the transitional screening and barrier requirements to that shown on the SE Plat.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Mary Ann Tsai, Planner, DPZ

Board Agenda Item
October 18, 2016

3:00 p.m.

Public Hearing on SE 2016-BR-004 (Marcela Munoz DBA Marcela's Day Care) to Permit a Home Child Care Facility for up to 12 Children, Located on Approximately 2,310 Square Feet of Land Zoned PHD-3 (Braddock District)

This property is located at 5400 Donnelly Court, Springfield, VA 22151. Tax Map 79-1 ((8)) 66

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, September 14, 2016, the Planning Commission voted 9-0 (Commissioners Hedetniemi, Lawrence, and Strandlie were absent from the meeting) to recommend that the Board of Supervisors approve SE 2016-BR-004, subject to the Development Conditions consistent with those dated August 31, 2016.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Mike Lynskey, Planner, DPZ

Board Agenda Item
October 18, 2016

3:00 p.m.

Public Hearing on SE 2016-BR-013 (Rejnaj of Twinbrooke, LLC) to Permit a Fast Food Restaurant and a Waiver of the Minimum Lot Size Requirements, Located on Approximately 30,245 Square Feet of Land Zoned C-6 (Braddock District)

This property is located at 9581 Braddock Road, Fairfax, VA 22032. Tax Map 69-3((1)) 18A (part).

PLANNING COMMISSION RECOMMENDATION:

On Thursday, October 6, 2016, the Planning Commission voted 9-0 (Commissioners Hedetniemi, Lawrence and Murphy, were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of SE 2016-BR-013, subject to the Development Conditions consistent with those dated October 6, 2016;
- Approval of a modification of the 40,000 square-foot minimum lot area standard of the C-6 Zoning District to permit the 30,245-square-foot Special Exception area {Section 4-606 of the Zoning Ordinance (ZO)};
- Approval of a modification of the Transitional Screening and Barrier requirements in favor of the existing site conditions, as supplemented by the proposed plantings shown on the SE Plat (Section 13-302 and 13-304 of the ZO);
- Approval of a modification of Required Site Plan Improvements, to accept the existing asphalt trail along Braddock Road in lieu of any requirement for a separate concrete sidewalk (Section 17-201, Paragraph 2 of the ZO); and
- Direct the Director of the Department of Public Works and Environmental Services to approve a modification of the Parking Geometrics and Standards of the Public Facilities Manual, to permit the existing 20-foot-wide two-way southern drive aisle, rather than the required 23-foot minimum width (Public Facilities Manual, Section 7-0800).

Board Agenda Item
October 18, 2016

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Mike Lynskey, Planner, DPZ

Board Agenda Item
October 18, 2016

3:00 p.m.

Public Hearing on SE 2015-SU-034 (PDG Daly Drive, LLC) to Permit Eating Establishments, Fast Food Restaurants, and Quick Service Food Stores, Located on Approximately 6.58 Acres of Land Zoned I-5, WS (Sully District)

This property is located at 4500 Daly Drive, Chantilly, VA 20151. Tax Map 44-1((1)) 13 B2.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, October 5, 2016, the Planning Commission voted 6-0 (Commissioner Hart had recused himself from the vote and Commissioners Flanagan, Hedetniemi, Lawrence, Murphy, and Sargeant were absent from the meeting) to recommend that the Board of Supervisors approve SE 2015-SU-034, subject to Development Conditions consistent with those dated September 21, 2016, which are contained in the Staff Report.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Mike Lynskey, Planner, DPZ

To Be Deferred

Board Agenda Item
October 18, 2016

3:00 p.m.

Public Hearing on SE 2016-HM-017 (Milestone Tower Limited Partnership III) to Permit a Telecommunications Facility (Monopine), Located on Approximately 14.20 Acres of Land Zoned R-2 (Cluster) (Hunter Mill District)

This property is located at 2791 Fox Mill Road, Herndon, VA 20171. Tax Map 36-1 ((10)) G

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission public hearing was held on September 28, 2016, and the decision was deferred to October 19, 2016.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Joe Gorney, Planner, DPZ

Board Agenda Item
October 18, 2016

3:30 p.m.

Public Hearing on AR 83-D-006-04 (Cajoll Co. and the John W. Hanes III Settler Trust) to Permit Renewal of a Previously Approved Agricultural and Forrestral District, Located on Approximately 57.38 Acres of Land Zoned R-E (Dranesville District)

This property is located at 9809 Arnon Chapel Road, Great Falls, VA 22066. Tax Map 8-3 ((1)) 47 Z1, 45Z, 50Z, and 51Z.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, September 29, 2016, the Planning Commission voted 10-0 (Commissioners Hedetniemi and Lawrence were absent from the meeting) to recommend that the Board of Supervisors approve AR 83-D-006-04 and amend Appendix F of the County Code to renew the Cajoll Local Agricultural and Forestal District, subject to ordinance provisions consistent with those dated September 14, 2016, which are contained in the Staff Report.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Mike Lynskey, Planner, DPZ

Board Agenda Item
October 18, 2016

3:30 p.m.

Public Hearing on AR 99-D-002-02 (Lawrence A. Krop) to Permit Renewal of a
Previously Approved Agricultural and Forrestral District, Located on Approximately 22.13
Acres of Land Zoned R-E (Dranesville District)

This property is located at 910 Utterback Store Road, Great Falls, VA 22066. Tax Map 7-3 ((1)) 30Z, 35Z, 38Z, 42Z, and 43Z.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, September 29, 2016, the Planning Commission voted 10-0 (Commissioners Hedetniemi and Lawrence were absent from the meeting) to recommend that the Board of Supervisors approve AR 99-D-002-02 and amend Appendix F of the County Code to renew the Krop Local Agricultural and forestal District, subject to ordinance provisions consistent with those dated September 14, 2016, which are contained in the Staff Report.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Mike Lynskey, Planner, DPZ

Board Agenda Item
October 18, 2016

3:30 p.m.

Public Hearing on AR 83-S-007-04 (Mary E., Victoria Anna, Gifford Ray, and Melissa V. Hampshire) to Permit Renewal of a Previously Approved Agricultural and Forrestral District, Located on Approximately 25.0 Acres of Land Zoned R-C, WS (Springfield District)

This property is located at 6295 Newman Road, Fairfax, VA. Tax Map 76-1 ((1)) 1Z and 26Z.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, October 5, 2016, the Planning Commission voted 7-0 (Commissioners Flanagan, Hedetniemi, Lawrence, Murphy, and Sargeant were absent from the meeting) to recommend that the Board of Supervisors approve AR 83-S-007-04 and amend Appendix F of the County Code to renew the Hanslot Local Agricultural and Forestal District, subject to ordinance provisions consistent with those dated September 21, 2016, which are contained in the Staff Report.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Mike Lynskey, Planner, DPZ

Board Agenda Item
October 18, 2016

3:30 p.m.

Public Hearing on PCA 2010-PR-022 (TMG Solutions Plaza Land, L.P.) to Permit Office, Hotel, Residential, Retail Development, and Modification to Proffers and Site Design with an Overall Floor Area Ratio of 5.33, Located on Approximately 7.97 Acres of Land Zoned PTC, SC and HC (Providence District)

This property is located between Leesburg Pike and Greensboro Drive, South of Westpark Drive. Tax Map 29-3 ((15)) 7 A2, 7C2, 7 G (part), 7 H (part), 7 J, and 7 K.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, October 5, 2016, the Planning Commission voted 7-0 (Commissioners Flanagan, Hedetniemi, Lawrence, Murphy, and Sargeant were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 2010-PR-022, subject to the execution of proffers consistent with those dated August 18, 2016; and
- Reaffirm all previously approved waivers and modifications.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Bob Katai, Planner, DPZ

Board Agenda Item
October 18, 2016

4:00 p.m.

Public Hearing to Consider Changes to The Code of Fairfax County, Virginia, Chapter 33, Pawnbrokers and Precious Metals and Gems Dealers

ISSUE:

A public hearing to revise Chapter 33 of The Fairfax County Code.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the proposed changes to Chapter 33.

TIMING:

On July 26, 2016, the Board authorized advertisement of a public hearing scheduled on October 18, 2016, at 4:00 p.m. If adopted, these revisions would become effective on November 1, 2016.

BACKGROUND:

Virginia law provides that no one in the Commonwealth may engage in the business of a precious metals and gems dealer or pawnbroker without a permit issued by the locality where the business is located. Virginia Code § 54.1-4108 requires Fairfax County to issue precious metals and gem dealer permits to qualified applicants. Virginia Code § 54.1-4111 enables Fairfax County to enact an ordinance that parallels, or is more restrictive than, the provisions found in the Code of Virginia.

Virginia Code § 54.1-4001 provides that Fairfax County may issue pawnbroker permits to qualified applicants. Virginia Code § 54.1-4002 authorizes localities to limit the number of pawnshops that may be operated at any one time within its territorial limits.

There are currently forty (40) precious metal and gem dealers who are permitted to purchase precious metals and gems from the public, and nine (9) permitted pawnshops operating in Fairfax County. Fairfax County limits the number of pawnshops that may operate within its territorial limits to twelve (12).

Fairfax County first enacted regulations for precious metal and gem dealers in 1981 and for pawnbrokers in 1989. Chapter 33 contains all provisions pertinent to the issuance of permits, operations of precious metals and gems dealer and pawnbroker businesses, and penalties for violation of the chapter.

Board Agenda Item
October 18, 2016

The Code of Virginia sets forth comprehensive minimum requirements for permit issuance, operation of businesses, and penalties. Chapter 33 of the Fairfax County Code in large part restates these requirements, with minor changes applicable to county operations. Since Chapter 33 was last revised, amendments to Virginia Code §§ 54.1-4100 through -4111 (Precious Metal and Gem Dealers) and §§ 54.1-4000 through -4014 (Pawnbrokers) have been enacted by the Virginia General Assembly. The proposed revisions to Chapter 33 incorporate the current provisions found in applicable sections of the Code of Virginia.

Staff briefed the Consumer Protection Commission in November 2015, and February 2016, on the proposal. The Commission offered feedback, which was incorporated into the proposed revision.

In March 2016, County staff met with permitted dealers and pawnbrokers and presented the proposed revisions. At that meeting, industry offered feedback on the proposal, which staff also incorporated into the proposed revision.

The Consumer Protection Commission held a public hearing on the proposed revision on May 17, 2016, where four industry representatives spoke on the proposal. Eight commissioners voted to recommend approval by the Board of Supervisors, with one commissioner abstaining.

ENCLOSED DOCUMENTS:

Attachment 1 - Virginia Code § 54.1-4108. Permit required; method of obtaining permit; no convictions of certain crimes; approval of weighing devices; renewal; permanent location required.

Attachment 2 - Virginia Code § 54.1-4111. Local ordinances.

Attachment 3 - Virginia Code § 54.1-4001. License required; license authorized by court; building designated in license; penalty.

Attachment 4 - Virginia Code § 54.1-4002. Local limitation as to number of pawnshops.

Attachment 5- Proposed Ordinance; draft markup of Fairfax County Code, Chapter 33

Attachment 6 - Staff Report to Consumer Protection Commission, May 17, 2016

Attachment 7 - Proposed Ordinance; Fairfax County Code, Chapter 33

STAFF:

David J. Molchany, Deputy County Executive

John Burton, Assistant County Attorney

Michael Liberman, Director, Department of Cable and Consumer Services

Henri Stein McCartney, Chief, Regulation and Licensing Branch, DCCS

Edwin Roessler, Jr., Chief, Fairfax County Police Department

Mike Nickolas, Detective, Fairfax County Police Department

Virginia Code

§ 54.1-4108. Permit required; method of obtaining permit; no convictions of certain crimes; approval of weighing devices; renewal; permanent location required.

A. No person shall engage in the activities of a dealer as defined in § [54.1-4100](#) without first obtaining a permit from the chief law-enforcement officer of each county, city, or town in which he proposes to engage in business.

B. To obtain a permit, the dealer shall file with the proper chief law-enforcement officer an application form which includes the dealer's full name, any aliases, address, age, date of birth, sex, and fingerprints; the name, address, and telephone number of the applicant's employer, if any; and the location of the dealer's place of business. Upon filing this application and the payment of a \$200 application fee, the dealer shall be issued a permit by the chief law-enforcement officer or his designee, provided that the applicant has not been convicted of a felony or crime of moral turpitude within seven years prior to the date of application. The permit shall be denied if the applicant has been denied a permit or has had a permit revoked under any ordinance similar in substance to the provisions of this chapter.

C. Before a permit may be issued, the dealer must have all weighing devices used in his business inspected and approved by local or state weights and measures officials and present written evidence of such approval to the proper chief law-enforcement officer.

D. This permit shall be valid for one year from the date issued and may be renewed in the same manner as such permit was initially obtained with an annual permit fee of \$200. No permit shall be transferable.

E. If the business of the dealer is not operated without interruption, with Saturdays, Sundays, and recognized holidays excepted, the dealer shall notify the proper chief law-enforcement officer of all closings and reopenings of such business. The business of a dealer shall be conducted only from the fixed and permanent location specified in his application for a permit.

F. The chief law-enforcement officer may waive the permit fee for retail merchants that are not required to be licensed as pawnbrokers under Chapter 40 (§ [54.1-4000](#) et seq.), provided the retail merchant has a permanent place of business and purchases of precious metals and gems do not exceed five percent of the retail merchant's annual business.

1981, c. 581, § 54-859.23; 1986, c. 316; 1988, c. 765; 2014, cc. [22](#), [611](#).

Virginia Code

§ 54.1-4111. Local ordinances.

Nothing in this chapter shall prevent any county, city, or town in this Commonwealth from enacting an ordinance regulating dealers in precious metals and gems which parallels this chapter, or which imposes terms, conditions, and fees that are stricter, more comprehensive, or larger than those imposed by this chapter. In any event, the terms, conditions, and fees imposed by this chapter shall constitute minimum requirements in any local ordinance. Any fee in excess of the one specified in § [54.1-4108](#) shall be reasonably related to the cost of enforcement of such local ordinance. 1981, c. 581, § 54-859.26; 1988, c. 765.

Virginia Code

§ 54.1-4001. License required; license authorized by court; building designated in license; penalty.

A. No person shall engage in the business of a pawnbroker without having a valid license issued by the county, city or town in which the pawnbroker conducts such business.

B. The circuit court of any county or city may authorize any county, city or town to issue to any individual, who has not been convicted of a felony or a crime involving moral turpitude in the last ten years, a license to engage in the business of a pawnbroker in that county, city or town. No such license shall be issued by any county, city or town except with such authority. Prior to the issuance of the license, the applicant shall furnish his date of birth, a sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or without the Commonwealth, and such other information to the licensing authority as may be required by the governing body. The license shall designate the building in which the licensee shall carry on such business.

C. No person shall engage in the business of a pawnbroker in any location other than the one designated in his license, except with consent of the court which authorized the license.

D. Any person who violates the provisions of this section shall be guilty of a Class 1 misdemeanor. Each day's violation shall constitute a separate offense.

Code 1950, §§ 54-841, 54-842; 1982, c. 633; 1986, c. 316; 1988, c. 765; 1998, c. 848.

Virginia Code

§ 54.1-4002. Local limitations as to number of pawnshops.

A. In addition to all limitations and restrictions and notwithstanding any other relevant provisions of this chapter, the governing body of any county, city or town may reasonably limit by resolution or ordinance the number of pawnshops that may be operated at any one time within its territorial limits.

B. The circuit court of any county or city which has, by resolution or ordinance, limited the number of pawnshops therein shall not authorize any license to any pawnbroker after the commissioner of the revenue or other tax assessing officer of the county, city or town over which it has jurisdiction for the issuance of such licenses has filed with the court a statement that the number of licensed pawnshops within the county, city or town has reached the maximum number of pawnshops authorized to be operated therein, unless the number has been reduced below the maximum prescribed. In the event that a properly licensed pawnbroker sells his business, the circuit court of the county or city shall authorize the county, city or town in which such business operates to issue to the purchaser a new license for the same location if the purchaser has not been convicted of a felony or a crime involving moral turpitude in the last ten years. Prior to the issuance of the license, the purchaser shall furnish his date of birth and such other information to the licensing authority as may be required by the local governing body.

Code 1950, § 54-843; 1982, c. 633; 1988, c. 765; 1998, c. 848.

**AN ORDINANCE AMENDING
CHAPTER 33 OF THE FAIRFAX COUNTY CODE, RELATING TO
PRECIOUS METAL AND GEM DEALERS AND PAWNBROKERS**

Draft of September 16, 2016

AN ORDINANCE to amend the Fairfax County Code by amending and readopting Chapter 33 relating to precious metal and gem dealers and pawnbrokers. Changes from the authorized version shown in [brackets].

Be it ordained by the Board of Supervisors of Fairfax County:

1. That Chapter 33 is amended and readopted as follows:

Chapter 33

Pawnbrokers and Precious Metals and Gems Dealers and Pawnbrokers

Article 1. Precious Metals and Gems Dealers.

Sec. 33-1-1. Definitions.

Sec. 33-1-2. Permit required.

Sec. 33-1-3. Method of obtaining permit.

Sec. 33-1-4. Permit non-transferable and to be displayed.

Sec. 33-1-5. ~~False statements~~ Information from sellers.

Sec. 33-1-6. ~~Information from sellers.~~ Records, copies of bills of sales required.

Sec. 33-1-7. Record of disposition.

Sec. 33-1-8. Prohibited purchases.

Sec. 33-1-9. Dealer to retain purchases.

Sec. 33-1-10. Dealer's bond.

Sec. 33-1-11. ~~Availability of bond proceeds~~ Private action on bond or letter of credit

Sec. 33-1-12. Search of premises of Dealer.

Sec. 33-1-13. Exemptions from chapter.

Sec. 33-1-14. Violation a misdemeanor.

Article 2. Pawnbrokers.

Sec. 33-2-1. Definition of pawnbroker.

Sec. 33-2-2. Limitation of pawnbroker licenses.

Sec. 33-2-3. Issuance of pawnbroker licenses.

Sec. 33-2-4. Daily Reports.

Sec. 33-2-5. Penalties.

ARTICLE 1. Precious Metals and Gems Dealers.

Section 33-1-1. Definitions.

A. "Dealer;" means any person, firm, partnership, or corporation engaged at any location in the County of Fairfax in the business of (i) purchasing secondhand Precious Metals or Gems; (ii) removing in any manner Precious Metals or making loans for which precious metals Gems from manufactured articles not then owned by the person, firm, partnership, or gems are received and held as security; corporation; or (iii) buying, acquiring, or selling Precious Metals or Gems removed from manufactured articles. "Dealer" includes all employers and principals on whose behalf a purchase is made, and any Employee or agent who makes any purchase for or on behalf of his employer or principal.

The definition of "Dealer" shall not include persons engaged in the following:

1. Purchases of Precious Metals or Gems directly from other Dealers, manufacturers, or Wholesalers for retail or wholesale inventories, provided, however, that the selling Dealer has complied with the provisions of this chapter.

2. Purchases of Precious Metals or Gems from a qualified fiduciary who is disposing of the assets of an estate being administered by the fiduciary.

3. Acceptance by a retail merchant of trade-in merchandise previously sold by the retail merchant to the person presenting that merchandise for trade-in.

4. Repairing, restoring or designing jewelry by a retail merchant, if such activities are within his normal course of business.

5. Purchases of Precious Metals or Gems by industrial refiners and manufacturers, insofar as such purchases are made directly from retail merchants permanently located within the County shall be exempted insofar as they make purchases directly from manufacturers or wholesalers of precious metals or gems for their inventories. This definition includes merchants whose business is itinerant in nature as well as those whose, Wholesalers, Dealers, or by mail originating outside the Commonwealth.

6. Persons regularly engaged in the business is permanently located in the County. As used herein, "dealer" includes employers and principals on whose behalf the purchase or loan was made and all employees and agents who personally make such purchases and loans. When any act for a permit is required of a corporation, it shall be performed by its president of purchasing and

processing non-precious scrap metals which incidentally may contain traces of Precious Metals recoverable as a by-product.

B. "Precious Metals" means any item except Coins composed in whole or in part of gold, silver, platinum, or platinum alloys.

C. ~~Precious metals:~~ Except for coins, "Gems" means any item containing as part of its composition in any degree gold, silver or platinum; precious or semiprecious stones
~~Gems: Any item containing or having a gemstone, such as is customarily used in jewelry or ornamentation.~~

D. ~~Wholesaler: Any person, firm, partnership or corporation whose business regularly includes the sale of precious metals or gems to dealers for inventory or who has a valid wholesale sales license from any state.~~

E. ~~"Coin: Pieces" means any piece of gold, silver or other metal fashioned into a prescribed shape, weight and degree of fineness, and stamped, by authority of a government, with certain marks and devices, and put into circulation as money at having a certain fixed value.~~ as money.

F. ~~E.~~ "Employee:" means a person working for a Dealer who is authorized to approve or consummate transactions, or actively participate in transactions involving Precious Metals or Gems as defined herein.

G. ~~F.~~ "Director:" means the Director of the Department of Cable and Consumer Affairs Services of Fairfax County, Virginia, or designee.

H. ~~G.~~ "Chief of Police:" means the Chief of Police of Fairfax County, Virginia, or designee.

Section 33-1-2. Permit required.

~~No dealer shall purchase precious metals or gems or make loans for which precious metals or gems are received and held as security person should [shall] engage in the activities of a Dealer as defined in Section 33-1-1 without first obtaining a permit from the Director as provided herein, and without complying with all other provision provisions of this Ordinance. Possession of a permit issued in another locality shall not relieve a Dealer of the obligation to obtain a permit from the Director.~~

Section 33-1-3. Method of obtaining permit.

~~The A. To obtain a permit required herein, the Dealer shall be issued by file with the Director or his designee upon payment of a twenty five dollar (\$25.00) an application fee and satisfaction of the requirements herein. The applicant shall be given a permit if he~~

124 ~~satisfies the Director of his good character and he has not been convicted within the~~
125 ~~past seven (7) years of a crime of moral turpitude. Information required on the~~
126 ~~application shall include the applicant's form which includes the dealer's full name, any~~
127 ~~aliases, address, age, date of birth, sex, and fingerprints, and photograph, and; the~~
128 ~~name, address, and telephone number of the applicant's employer, if any; and the~~
129 ~~location of the dealer's place of business of. Upon filing this application and the~~
130 ~~payment of a \$200 fee, the dealer shall be issued a permit by the Director or his~~
131 ~~designee, provided that the applicant has not been convicted of a felony or crime of~~
132 ~~moral turpitude within seven (7) years prior to the date of application. The permit shall~~
133 ~~be denied if the applicant has been denied a permit, or has had a permit revoked, under~~
134 ~~any ordinance similar in substance to the provisions of this chapter. Any false~~
135 ~~statement made on the application form voids the permit *ab initio*. No~~

136 B. Before a permit may be issued, the Dealer must have all weighing devices used in
137 his business inspected and approved by state weights and measures officials, and
138 present written evidence of such approval to the Director.

139 C. This permit shall be valid for more than one (1)-year from the date of issuance
140 but issued, and may be renewed in the same manner as the initial such permit is was
141 initially obtained with an annual fee of \$200.

142 D. If the business of the dealer does is not operate continuously (operated without
143 interruption, with Saturdays, Sundays, and recognized holidays excepted) from the date
144 of obtaining his permit, then he, the dealer shall notify the Director of any closing and
145 renewing Chief of Police of all closings and reopenings of such business. A dealer may
146 conduct the licensed The business of a dealer shall be conducted only from the fixed
147 and permanent location as specified in the his application for the license, which shall be
148 other than a motel or hotel room generally used by transients. a permit.

149 **Section 33-1-4. Permit non-transferable and to be displayed.**

150 The permit issued hereunder shall be a personal privilege and shall not be transferable,
151 nor shall there be any abatement of the fee for such permit by reason of the fact that the
152 Dealer shall have exercised the privilege for any period of time less than that for which it
153 was granted. The permit shall at all times be displayed prominently by the Dealer on his
154 business premises.

155
156 **Section 33-1-5. False statements.**

157 ~~Any false statement made on the application form voids the permit *ab initio*.~~

158
159 **Section 33-1-6. Information from sellers.**

160 Dealers

161 No Dealer shall ascertain the name, address and age of sellers of purchase Precious
162 Metals or Gems and shall require without first (i) ascertaining the identity of the seller to
163 verify same by some form of requiring an identification issued by a governmental

agency, which identification must show as a part of it the picture of the person so identified; provided, however, if the seller does not have identification which includes a picture of the seller, two (2) other forms of identification may be used by the seller such as a driver's license from a jurisdiction that does not contain with a photograph or some other similar identification issued by a governmental authority provided the dealer takes a photograph of the seller and retains such photograph during the fifteen day holding period of the seller thereon, and at least one other corroborating means of identification, and (ii) obtaining a statement of ownership from the seller.

Section 33-1-76. Records, copies of bills of sales required.

A. Every Dealer shall maintain adequate records containing the following information which shall appear on bills of sale, the form of which shall be prescribed by the Chief of Police, one (1) copy of which is to keep at his place of business an accurate and legible record of each purchase of Precious Metals or Gems. The record of each purchase shall be retained by the Dealer, one (1) copy to be delivered during regular County work hours to the Chief of Police at his office at the County Complex, or for at a place or places designated by the Chief of Police, within least twenty-four (24) hours of the sale, months and one (1) copy to be delivered to the seller of such precious metals or gems. If the purchase or loan occurs during a weekend or holiday, then the delivery to the Chief of Police shall be made no later than 10:00 a.m. of the next regular work day. The required information is as follows shall set forth the following:

(1) The name of the dealer and his employer or principal if any:

(2) 1. A complete description of each item all Precious Metals or set Gems purchased by the dealer, said from each seller. The description to shall include all names, letters, initials, serial numbers and, or other identifying marks appearing on the or monograms on each item purchased, the true weight or carat of any gem, and the price paid for each item in question.;

(3) 2. The date, time, and place of receiving the items purchased;

3. The full name, residence address and age of, work place, home and work telephone numbers, date of birth, sex, race, height, weight, hair and eye color, and other identifying marks of the person selling the Precious Metals or Gems;

4. Verification of the identification by the exhibition of a government-issued identification card bearing a photograph of the person selling the Precious Metals or Gems, such as a driver's license or military identification card. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon;

202 5. A statement of ownership from the seller;

203 ~~Such~~ 6. A digital image of the form of identification used by the person involved
204 in the transaction records are submitted; and

205 7. Digital images of the Precious Metals or Gems purchased by the dealer.
206 Such digital images shall show the entirety of the item(s) composed of Precious
207 Metals or Gems.

208 B. The information required by subdivisions A(1) through A(4) shall appear on each bill
209 of sale for all Precious Metals and Gems purchased by a Dealer, and a copy shall be
210 electronically delivered, in a format acceptable to the Chief of Police in confidence. The
211 , within 24 hours of the time of purchase to the Chief of Police is directed to take
212 appropriate measures.

213 **Section 33-1-7. Record of Disposition.**

214 Each dealer shall maintain, for at least twenty-four (24) months, an accurate and legible
215 record of the name and address of the person, firm, or corporation to ensure the
216 confidentiality of the information submitted pursuant to this section, which he sells any
217 Precious Metal or Gem in its original form after the waiting period required by Section
218 33-1-9. This record shall also show the name and address of the seller from whom the
219 dealer purchased the item.

220 **Section 33-1-8. Prohibited purchases.**

221 ~~No Dealer shall purchase or make a loan on Precious Metals or Gems from any seller~~
222 ~~who is under the age of eighteen (18). No Dealer shall purchase or make a loan on~~
223 ~~Precious Metals or Gems from anyone whom any seller who the Dealer believes, or has~~
224 ~~reason to believe, is not the owner of said precious metals or gems or is not lawfully~~
225 ~~acting for such items, unless the seller has written and duly authenticated authorization~~
226 ~~from the owner of said precious metals or gems permitting and directing such sale.~~
227

228 **Section 33-1-9. Dealer to retain purchases.**

229 ~~A. The Dealer shall retain either within the County or any immediately adjacent county~~
230 ~~or city all Precious Metals or Gems purchased or held as security for a minimum of~~
231 ~~fifteen (15) calendar days from the time date on which a copy of filing the bill of sale of~~
232 ~~their purchase with is received by the Chief of Police. During said Until the expiration of~~
233 ~~this period of time, no change of any nature shall be made to any, the Dealer shall not~~
234 ~~sell, alter, or dispose of a purchased item containing precious metals or gems. The~~
235 ~~fifteen-day retention period shall not apply to dealer-to-dealer sales where the precious~~
236 ~~metals or gems have already been retained and reported under this Ordinance in whole~~
237 ~~or in part, or remove it from Fairfax County.~~
238

B. If a Dealer performs the service of removing Precious Metals or Gems, he shall retain the metals or Gems removed and the article from which the removal was made for a period of fifteen (15) calendar days after receiving such article and Precious Metals or Gems. Until the expiration of this period, the Dealer shall not remove the metals, Gems, or the article from Fairfax County.

Section 33-1-10. Dealer's bond.

~~Prior to approving an application for a~~ A. Every Dealer shall secure a permit, the applicant as required by Section 33-1-2, and each Dealer at the time of obtaining such permit shall enter a bond with either one (1) into a recognizance to Fairfax County secured by a corporate or two (2) personal sureties known surety authorized to the Director, said bond to be payable to the County do business in the Commonwealth of Virginia, in the penal sum of Five Thousand Dollars (~~\$5~~ Ten-thousand dollars (\$10,000.00) and), conditioned upon due observance of the terms of this Ordinance chapter. In lieu of posting said a bond, the Dealer may post cash or cause to be issued by a bank authorized to do business in the Commonwealth of Virginia a letter of credit from a recognized financial institution whose terms are satisfactory to the Director in favor of Fairfax County for \$10,000.

B. A single bond upon an employer or principal may be written or a single letter of credit issued to cover all Employees and all transactions occurring at a single location.

Section 33-1-11. Availability of bond proceeds. Private action on bond or letter of credit.

Any person aggrieved by a dealer's violation of the misconduct of any Dealer which violated the provisions of this Ordinance and who recovers a final judgment against said dealer therefor chapter may maintain an action in for recovery in any court of proper jurisdiction against the Dealer and his own name upon the dealer's bond surety. Recovery against the surety shall be only for that amount of the judgment which is unsatisfied by the Dealer.

Section 33-1-12. Search of premises of Dealers.

Every Dealer shall admit to his premises during the regular business hours of business the Chief of Police of Fairfax County or his sworn designee to, or any law enforcement officer of the state or federal government. The Dealer or his Employee shall permit the officer to (i) examine any transaction all records, on the premises or in the possession of the dealer, required by this Ordinance chapter and to search for any article listed in a transaction record that is in the 15 day hold status, known by the Chief of Police or his sworn designee to be missing; or known or which is believed by the Chief of Police or his sworn designee officer to be missing or stolen, without the formality of search warrant or any other process and (ii) search for and take into possession any article known to him to be missing, or known or believed by him to have been stolen.

Section 33-1-13. Violation a misdemeanor~~Exemptions from chapter.~~

~~Violation~~ A. The Chief of Police, or his designee, may waive by written notice implementation of any one or more of the provisions of this Ordinance chapter, except Section 33-1-8, for particular numismatic, Gem, or antique exhibitions, or craft shows sponsored by nonprofit organizations, provided that the purpose of the exhibitions is nonprofit in nature, notwithstanding the fact that there may be casual purchases and trades made at such exhibitions.

B. The provisions of this chapter shall ~~be not~~ apply to the sale or purchase of Coins.

C. The provisions of this chapter shall not apply to any bank, branch thereof, trust company or bank holding company, or any wholly owned subsidiary thereof, engaged in buying and selling gold and silver bullion.

Section 33-1-14. Violation a misdemeanor.

A. Any person convicted of violating any of the provisions of this chapter shall be guilty of a Class 2 misdemeanor for the first offense. Upon conviction therefor, ~~shall be punished by fine of not more than One Thousand Dollars (\$1,000.00) or a jail term of not more than twelve (12) months or both.~~ of any subsequent offense, he shall be guilty of a Class 1 misdemeanor.

B. Upon the first conviction of a Dealer for violation of any provision of this chapter, the Director may revoke the Dealer's permit for one full year from the date the conviction becomes final. Such revocation shall be mandatory for two full years from the date the conviction becomes final upon a second violation of this chapter.

ARTICLE 2. Pawnbrokers.

Section 33-2-1. Definition of pawnbroker.

Pawnbroker means any person who lends or advances money, or other things for profit, on the pledge and possession of personal property, or other valuable things, other than securities or written or printed evidences of indebtedness or title, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.

Section 33-2-2. Limitation of pawnbroker licenses.

Not more than twelve (12) places in the County of Fairfax shall be licensed where the business of a pawnbroker, including a pawnbroker's sales, may be conducted.

In the event that a properly licensed pawnbroker sells his business, the circuit court shall authorize the Director to issue to the purchaser a new license for the same

location if the purchaser has not been convicted of a felony or a crime involving moral turpitude in the last ten (10) years. Prior to the issuance of the license, the purchaser shall pay a fee of \$25 and furnish his date of birth and such other information as may be required by the Director.

Section 33-2-3. Issuance of pawnbroker licenses.

A. No person shall engage in the business of a pawnbroker without having a valid license issued by the Director.

B. Upon authorization of the circuit court, the Director of the Department of Consumer Affairs shall may issue a pawnbroker license upon payment of a Twenty-five Dollar (\$25.00) application fee and satisfaction of the requirements herein. The applicant shall be given a permit if he satisfied the Director of the Department of Consumer Affairs of his good character and heto any individual, who has not been convicted within the past seven (7) years of a felony or a crime ofinvolving moral turpitude, including, however not limited to, larceny, receiving stolen property, fraud and false pretenses. Information required on the application shall include the applicant's full name, aliases, address, age, sex, fingerprints, and photograph, and the name, address and telephone number of the applicant's employer, if any, and the location of the place of in the last ten (10) years, a license to engage in the business of a pawnbroker in the applicantcounty. No permitsuch license shall be valid for more than one (1) yearissued by the Director except with such authority from the date ofcircuit court. Prior to the issuance but of the license, the applicant shall pay an annual fee of \$25 and furnish his date of birth, a sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or without the Commonwealth of Virginia, and such other information as may be required by the Director. The license shall designate the building in which the licensee shall carry on such business.

C. This license shall be valid for one year from the date issued and may be renewed in the same manner as the initialsuch permit iswas initially obtained. If the with an annual fee of \$25. No license shall be transferable.

D. No person shall engage in the business of a pawnbroker does not operate continuously (Saturdays, Sundays and recognized holidays excepted) from the date of obtainingin any location other than the one designated in his permit, then he shall notify the Director of the Department of Consumer Affairs of any closing and renewing of business. license, except with consent of the court which authorized the license.

E. Any person who violates the provisions of this section shall be guilty of a Class 1 misdemeanor. Each day's violation shall constitute a separate offense.

33-2-4. Daily Reports.

A. Every pawnbroker may conduct theshall prepare a daily report of all goods, articles,

357 or things pawned or pledged with him or sold to him that day, and shall file such report
358 by noon of the following day with the Chief of Police or designee. The report shall
359 include the pledger's or seller's name, residence, and driver's license number or other
360 form of identification; a photograph or digital image of the form of identification used by
361 the pledger or seller; and a description of the goods, articles, or other things pledged or
362 sold and, unless maintained in electronic format, shall be in writing and clearly legible to
363 any person inspecting it. A pawnbroker shall file the required daily reports electronically
364 with the appropriate law-enforcement officer through any electronic means of reporting
365 approved by the Chief of Police.

366
367 **33-2-5. Penalties**

368 Except as otherwise provided in 33-2-3, any licensed business only from the fixed
369 permanent location as specified in the application pawnbroker who violates any of the
370 provisions of this chapter shall be guilty of a Class 4 misdemeanor. In addition, the
371 court may revoke or suspend the pawnbroker's license for the license, which shall be
372 other than a motel or hotel room generally used by transients. second and subsequent
373 offenses.
374

2. That the provisions of this ordinance are severable, and if any provision of this ordinance or any application thereof is held invalid, that invalidity shall not affect the other provisions or applications of this ordinance that can be given effect without the invalid provision or application.
3. That the provisions of this ordinance shall take effect on November 1, 2016.

GIVEN under my hand this _____ day of _____, 2016.

Clerk to the Board of Supervisors

**STAFF REPORT TO
CONSUMER PROTECTION COMMISSION
May 17, 2016**

**Revision to Fairfax County Code
Chapter 33, Precious Metals and Gems Dealers and Pawnbrokers**

Summary and State Mandate

The Department of Cable and Consumer services is proposing an update to Chapter 33 of Fairfax County Code pertaining to the regulation of precious metals and gem dealers and pawnbrokers. Fairfax County is mandated by Virginia Code § 54.1-4108 to issue permits to precious metal and gem dealers, and by Virginia Code § 54.1-4001 to issue permits to pawnbrokers. Virginia Code § 54.1-4001 authorizes localities to limit the number of pawnbroker permits available for issuance in the jurisdiction.

There are currently forty-two (42) precious metal and gem dealers who are permitted by Fairfax County to purchase precious metals and gems from the public. By law, employees of the dealer's business may also purchase items on behalf of the dealer. Fairfax County limits the number of pawn permits available for issuance to twelve (12). There are nine (9) pawn businesses currently licensed by Fairfax County.

Fairfax County Code Provisions

Pursuant to the mandate required by Virginia Code, Fairfax County first enacted regulations for precious metal and gem dealers and pawnbrokers in Chapter 33 of Fairfax County Code in 1981. Chapter 33 contains all provisions pertinent to the issuance of permits, operations of precious metal and gem dealer and pawnbroker businesses, and penalties for violation of the chapter. This chapter was last revised in 1989.

Reason for Change

Because Virginia Code sets forth comprehensive minimum requirements for permit issuance, operation of businesses, and penalties, Chapter 33 of County Code in large part restates these requirements, with minor changes applicable to Fairfax County. Since Chapter 33 was last revised, numerous amendments to Virginia Code §§ 54.1-4100 – 4111 (Precious Metal and Gem Dealers) and §§ 54.1-4000 – 4014 (Pawnbrokers) have been enacted by the Virginia General Assembly. The proposed revisions to Chapter 33 of County Code seek to incorporate the current provisions of applicable sections of the Virginia Code.

Proposed revisions to Chapter 33, Article 1, Precious Metal and Gem Dealers, include the following items of note:

- Fees have been increased from \$25 to \$200, per Va. Code § 54.1-4108.

Board Agenda Item
October 18, 2016

- Permit denial criteria have been updated to allow denial if an applicant has been convicted of a felony or crime of moral turpitude in the seven (7) years preceding the filing of a permit application, in accordance with Virginia Code § 54.1-4108. Current code allows denial for moral turpitude convictions, but not for felony convictions.
- Dealers must maintain digital photographs of the identification of sellers of precious metals and gems, in accordance with Virginia Code § 54.1-4101, as well as digital photographs of the item(s) purchased from the seller for 24 months from the date of purchase.
- Dealers must hold all precious metals and gems purchased from the public, without alteration, at a location inside of Fairfax County for fifteen (15) calendar days from the date of purchase, as required by Virginia Code § 54.1-4104. Current code allows dealers to hold purchased items in an immediately adjacent jurisdiction.
- All dealers will be required to obtain a surety bond or a letter of credit in the amount of \$10,000, in favor of Fairfax County, in accordance with Virginia Code § 54.1-4106. Current code provisions require that dealers post a bond or letter of credit in the amount of \$5,000, in favor of Fairfax County.
- The proposed penalty for any violation of Chapter 33, Article has been set as a Class 2 misdemeanor, punishable by confinement in jail for not more than six months and a fine of not more than \$1,000, either or both. Penalties for any second offense of the chapter are set as Class 1 misdemeanors, punishable by confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both. These changes are required by Virginia Code § 54.1-4110. Current code provisions do not specify the classification of misdemeanor, and does not escalate punishment for any subsequent offenses of the chapter.
- New language has been added to allow for revocation of a dealer's permit for one year if the dealer has been convicted of violation of the chapter. Upon any second conviction, the dealer's permit may be revoked for two years from the date of conviction. This new language is required by Virginia Code § 54.1-4110. Current code does not provide for revocation after conviction for violations of the chapter.

Proposed revisions to Chapter 33, Article 2, Pawnbrokers, include the following items of note:

- Permit denial criteria have been updated to allow denial if an applicant has been convicted of a felony or crime of moral turpitude in the ten (10) years preceding the filing of a permit application, in accordance with Virginia Code § 54.1-4001. Current code allows denial for moral turpitude convictions, but not for felony convictions.
- New penalty language provides that any violation of Chapter 33, Article 2 is a Class 4 misdemeanor, punishable a fine of not more than \$250; except the penalty for acting as a pawnbroker without the required permit is a Class 1 misdemeanor, punishable by confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both. These changes are required by Virginia Code § 54.1-4014. Current code provisions do not set forth penalties for violations of the section.
- New language has been added to allow the circuit court to suspend or revoke a dealer's permit for second or subsequent convictions for violation of the chapter. Current code does not provide for revocation after conviction for violations of the chapter.

A comprehensive summary of the proposed changes is set forth in Table 1.

Table 1

Proposed Changes to Chapter 33

Article 1 – Precious Metal and Gem Dealers	
33-1-1	Revised definition of “dealer”, “precious metals”, “gem” and “coin” to conform to Virginia Code § 54.1-4100.
33-1-2	Removed language related to making loans on precious metals and gems. PMG dealers are not allowed to make loans of items of value.
33-1-3	Updated fee amount from \$25 to \$200 to reflect fees allowed in Virginia Code § 54.1-4108.
33-1-3	In subsection (A), updated reasons for denial to conform to Virginia Code § 54.1-4108, which allows denial if convicted of felony or crime of moral turpitude in preceding seven (7) years, or if similar permit has been denied or revoked by another jurisdiction. Prior code allowed denial for moral turpitude convictions only.
33-1-3	In subsection (B), added requirement that scales be inspected and approved by weights and measures official.
33-1-3	In subsection (C), added language on permit term and renewal method.
33-1-4	No change
33-1-5	Moved language from 33-1-5 to 33-1-3. Renumbered section.
33-1-5 (new language)	Updated information required from sellers to include two forms of identification, as required by Virginia Code § 54.1-4101. Current code requires only one form of identification from sellers.
33-1-6	Replaced section with language from Virginia Code § 54.1-4101. Added “24 months” as the period of time which purchase records must be kept by dealers; adds requirement for dealers to maintain digital photographs of seller’s identification and of item purchased from seller; adds statement of ownership from seller to records that must be maintained; requires dealer to maintain digital images of items purchased; and requires electronic submission of daily transaction report to FCPD.
33-1-7	Added language from Virginia Code § 54.1-4105 requiring record of disposition.
33-1-8	Removed language related to making loans on precious metals and gems. Added new language from Virginia Code § 54.1-4101 that prohibits dealer from purchasing items from anyone other than the owner of such items unless seller presents duly authenticated authorization from owner of items.
33-1-9	Added language that requires purchased items be held in the jurisdiction in which purchase was made, as required by Virginia Code § 54.1-4104. Current code allows purchases to be held in a neighboring jurisdiction.

33-1-10	Updated surety bond amount from \$5,000 to \$10,000, as required by Virginia Code § 54.1-4106.
33-1-11	Revised language that specifies how an aggrieved consumer may seek recovery of losses against surety bond of dealer. Specifies that recovery sought is limited to the amount of any unsatisfied judgement against the dealer. Current Virginia Code § 54.1-4104.
33-1-12	Added language to allow state or federal law enforcement officers to search premises of dealer without a search warrant and take into possession any items known to be missing or stolen, as required by Virginia Code § 54.1-4101.1.
33-1-13	Added new language exempting certain transactions from code requirements.
33-1-14	Updated penalties and add revocation language, as in § 54.1-4110. Sets penalty as Class 2 misdemeanor for first offense and Class 1 misdemeanor for any subsequent offenses. Provides that dealer's permit is revoked for one year upon first conviction, and revoked for two years upon any second conviction for violation of Chapter 33.
Article 2 – Pawnbrokers	
33-2-1	No change
33-2-2	Added language from Virginia Code § 54.1-4002 that specifies that if a properly licensed pawnbroker sells his business, that the purchaser shall be issued a pawnbroker permit provided he is otherwise qualified.
33-2-3	Revised language related to issuance of a pawnbroker permit. Updated reasons for denial to conform to Virginia Code § 54.1-4001, which allows denial if convicted of felony or crime of moral turpitude in preceding ten (10) years. Prior code allowed denial for moral turpitude convictions in preceding seven (7) years. Added language that disqualifies individuals who have been convicted of a felony or a crime of moral turpitude in the ten (10) years prior to application. Added provision that operating as a pawnbroker without a permit is a Class 1 misdemeanor, with each day of violation constituting a separate offense.
33-2-4	Added language from Virginia Code § 54.1-4010 requiring that all transactions be reported electronically to Fairfax County Police Department by noon the day following the transaction. Added provision that any person failing to report pawn transactions is guilty of a Class 4 misdemeanor.
33-3-5	Added penalties as prescribed by Virginia Code § 54.1-4014, which states that any violation of the chapter is punishable as a Class 4 misdemeanor unless otherwise noted. Also allows the court to suspend or revoke the pawnbroker's license for any second or subsequent offense of the chapter.

Fairfax County Code

CHAPTER 33. Precious Metals and Gems Dealers and Pawnbrokers.

Article 1. Precious Metals and Gems Dealers.

Sec. 33-1-1. Definitions.

Sec. 33-1-2. Permit required.

Sec. 33-1-3. Method of obtaining permit.

Sec. 33-1-4. Permit non-transferable and to be displayed.

Sec. 33-1-5. Information from sellers.

Sec. 33-1-6. Records, copies of bills of sales required.

Sec. 33-1-7. Record of disposition.

Sec. 33-1-8. Prohibited purchases.

Sec. 33-1-9. Dealer to retain purchases.

Sec. 33-1-10. Dealer's bond.

Sec. 33-1-11. Private action on bond or letter of credit

Sec. 33-1-12. Search of premises of Dealer.

Sec. 33-1-13. Exemptions from chapter.

Sec. 33-1-14. Violation a misdemeanor.

Article 2. Pawnbrokers.

Sec. 33-2-1. Definition of pawnbroker.

Sec. 33-2-2. Limitation of pawnbroker licenses.

Sec. 33-2-3. Issuance of pawnbroker licenses.

Sec. 33-2-4. Daily Reports.

Sec. 33-2-5. Penalties.

ARTICLE 1. Precious Metals and Gems Dealers.

Section 33-1-1. Definitions.

A. "Dealer" means any person, firm, partnership, or corporation engaged in the business of (i) purchasing secondhand Precious Metals or Gems; (ii) removing in any manner Precious Metals or Gems from manufactured articles not then owned by the person, firm, partnership, or corporation; or (iii) buying, acquiring, or selling Precious Metals or Gems removed from manufactured articles. "Dealer" includes all employers and principals on whose behalf a purchase is made, and any Employee or agent who makes any purchase for or on behalf of his employer or principal.

The definition of "Dealer" shall not include persons engaged in the following:

1. Purchases of Precious Metals or Gems directly from other Dealers, manufacturers, or Wholesalers for retail or wholesale inventories, provided that the selling Dealer has complied with the provisions of this chapter.
2. Purchases of Precious Metals or Gems from a qualified fiduciary who is disposing of the assets of an estate being administered by the fiduciary.
3. Acceptance by a retail merchant of trade-in merchandise previously sold by the retail merchant to the person presenting that merchandise for trade-in.
4. Repairing, restoring or designing jewelry by a retail merchant, if such activities are within his normal course of business.
5. Purchases of Precious Metals or Gems by industrial refiners and manufacturers, insofar as such purchases are made directly from retail merchants, Wholesalers, Dealers, or by mail originating outside the Commonwealth.
6. Persons regularly engaged in the business of purchasing and processing non-precious scrap metals which incidentally may contain traces of Precious Metals recoverable as a by-product.

B. "Precious Metals" means any item except Coins composed in whole or in part of gold, silver, platinum, or platinum alloys.

C. "Gems" means any item containing precious or semiprecious stones customarily used in jewelry.

D. "Coin" means any piece of gold, silver or other metal fashioned into a prescribed shape, weight and degree of fineness, stamped by authority of a government with certain marks and devices, and having a certain fixed value as money.

E. "Employee" means a person working for a Dealer who is authorized to approve or consummate transactions, or actively participate in transactions involving Precious Metals or Gems as defined herein.

F. "Director" means the Director of the Department of Cable and Consumer Services of Fairfax County, Virginia, or designee.

G. "Chief of Police" means the Chief of Police of Fairfax County, Virginia, or designee.

Section 33-1-2. Permit required.

No person shall engage in the activities of a Dealer as defined in Section 33-1-1 without first obtaining a permit from the Director as provided herein, and without complying with all other provisions of this Ordinance. Possession of a permit issued in another locality shall not relieve a Dealer of the obligation to obtain a permit from the Director.

Section 33-1-3. Method of obtaining permit.

A. To obtain a permit, the Dealer shall file with the Director an application form which includes the dealer's full name, any aliases, address, age, date of birth, sex, and fingerprints; the name, address, and telephone number of the applicant's employer, if any; and the location of the dealer's place of business. Upon filing this application and the payment of a \$200 fee, the dealer shall be issued a permit by the Director or his designee, provided that the applicant has not been convicted of a felony or crime of moral turpitude within seven (7) years prior to the date of application. The permit shall be denied if the applicant has been denied a permit, or has had a permit revoked, under any ordinance similar in substance to the provisions of this chapter. Any false statement made on the application form voids the permit *ab initio*.

B. Before a permit may be issued, the Dealer must have all weighing devices used in his business inspected and approved by state weights and measures officials, and present written evidence of such approval to the Director.

C. This permit shall be valid for one year from the date issued, and may be renewed in the same manner as such permit was initially obtained with an annual fee of \$200.

D. If the business of the dealer is not operated without interruption, with Saturdays, Sundays, and recognized holidays excepted, the dealer shall notify the Chief of Police of all closings and reopenings of such business. The business of a dealer shall be conducted only from the fixed and permanent location specified in his application for a permit.

Section 33-1-4. Permit non-transferable and to be displayed.

The permit issued hereunder shall be a personal privilege and shall not be transferable, nor shall there be any abatement of the fee for such permit by reason of the fact that the Dealer shall have exercised the privilege for any period of time less than that for which it was granted. The permit shall at all times be displayed prominently by the Dealer on his business premises.

Section 33-1-5. Information from sellers.

No Dealer shall purchase Precious Metals or Gems without first (i) ascertaining the identity of the seller by requiring an identification issued by a governmental agency with a photograph of the seller thereon, and at least one other corroborating means of identification, and (ii) obtaining a statement of ownership from the seller.

Section 33-1-6. Records, copies of bills of sales required.

A. Every Dealer shall keep at his place of business an accurate and legible record of each purchase of Precious Metals or Gems. The record of each purchase shall be retained by the Dealer for at least twenty-four (24) months and shall set forth the following:

1. A complete description of all Precious Metals or Gems purchased from each seller. The description shall include all names, initials, serial numbers, or other identifying marks or monograms on each item purchased, the true weight or carat of any gem, and the price paid for each item;

2. The date, time, and place of receiving the items purchased;

3. The full name, residence address, work place, home and work telephone numbers, date of birth, sex, race, height, weight, hair and eye color, and other identifying marks of the person selling the Precious Metals or Gems;

4. Verification of the identification by the exhibition of a government-issued identification card bearing a photograph of the person selling the Precious Metals or Gems, such as a driver's license or military identification card. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon;

5. A statement of ownership from the seller;

6. A digital image of the form of identification used by the person involved in the transaction; and

7. Digital images of the Precious Metals or Gems purchased by the dealer. Such digital images shall show the entirety of the item(s) composed of Precious Metals or Gems.

B. The information required by subdivisions A(1) through A(4) shall appear on each bill of sale for all Precious Metals and Gems purchased by a Dealer, and a copy shall be electronically delivered, in a format acceptable to the Chief of Police, within 24 hours of the time of purchase to the Chief of Police.

Section 33-1-7. Record of Disposition.

Each dealer shall maintain, for at least twenty-four (24) months, an accurate and legible record of the name and address of the person, firm, or corporation to which he sells any Precious Metal or Gem in its original form after the waiting period required by Section 33-1-9. This

record shall also show the name and address of the seller from whom the dealer purchased the item.

Section 33-1-8. Prohibited purchases.

No Dealer shall purchase Precious Metals or Gems from any seller who is under the age of eighteen (18). No Dealer shall purchase Precious Metals or Gems from any seller who the Dealer believes, or has reason to believe, is not the owner of such items, unless the seller has written and duly authenticated authorization from the owner permitting and directing such sale.

Section 33-1-9. Dealer to retain purchases.

A. The Dealer shall retain all Precious Metals or Gems purchased for a minimum of fifteen (15) calendar days from the date on which a copy of the bill of sale is received by the Chief of Police. Until the expiration of this period, the Dealer shall not sell, alter, or dispose of a purchased item in whole or in part, or remove it from Fairfax County.

B. If a Dealer performs the service of removing Precious Metals or Gems, he shall retain the metals or Gems removed and the article from which the removal was made for a period of fifteen (15) calendar days after receiving such article and Precious Metals or Gems. Until the expiration of this period, the Dealer shall not remove the metals, Gems, or the article from Fairfax County.

Section 33-1-10. Dealer's bond.

A. Every Dealer shall secure a permit as required by Section 33-1-2, and each Dealer at the time of obtaining such permit shall enter into a recognizance to Fairfax County secured by a corporate surety authorized to do business in the Commonwealth of Virginia, in the penal sum of Ten-thousand dollars (\$10,000), conditioned upon due observance of the terms of this chapter. In lieu of a bond, a Dealer may cause to be issued by a bank authorized to do business in the Commonwealth of Virginia a letter of credit in favor of Fairfax County for \$10,000.

B. A single bond upon an employer or principal may be written or a single letter of credit issued to cover all Employees and all transactions occurring at a single location.

Section 33-1-11. Private action on bond or letter of credit.

Any person aggrieved by the misconduct of any Dealer which violated the provisions of this chapter may maintain an action for recovery in any court of proper jurisdiction against the Dealer and his surety. Recovery against the surety shall be only for that amount of the judgment which is unsatisfied by the Dealer.

Section 33-1-12. Search of premises of Dealers.

Every Dealer shall admit to his premises during regular business hours the Chief of Police of Fairfax County or his sworn designee, or any law enforcement officer of the state or federal government. The Dealer or his Employee shall permit the officer to (i) examine all records required by this chapter and any article listed in a record which is believed by the officer to be

missing or stolen, and (ii) search for and take into possession any article known to him to be missing, or known or believed by him to have been stolen.

33-1-13. Exemptions from chapter.

A. The Chief of Police, or his designee, may waive by written notice implementation of any one or more of the provisions of this chapter, except Section 33-1-8, for particular numismatic, Gem, or antique exhibitions, or craft shows sponsored by nonprofit organizations, provided that the purpose of the exhibitions is nonprofit in nature, notwithstanding the fact that there may be casual purchases and trades made at such exhibitions.

B. The provisions of this chapter shall not apply to the sale or purchase of Coins.

C. The provisions of this chapter shall not apply to any bank, branch thereof, trust company or bank holding company, or any wholly owned subsidiary thereof, engaged in buying and selling gold and silver bullion.

Section 33-1-14. Violation a misdemeanor.

A. Any person convicted of violating any of the provisions of this chapter shall be guilty of a Class 2 misdemeanor for the first offense. Upon conviction of any subsequent offense, he shall be guilty of a Class 1 misdemeanor.

B. Upon the first conviction of a Dealer for violation of any provision of this chapter, the Director may revoke the Dealer's permit for one full year from the date the conviction becomes final. Such revocation shall be mandatory for two full years from the date the conviction becomes final upon a second violation of this chapter.

ARTICLE 2. Pawnbrokers.

Section 33-2-1. Definition of pawnbroker.

Pawnbroker means any person who lends or advances money, or other things for profit, on the pledge and possession of personal property, or other valuable things, other than securities or written or printed evidences of indebtedness or title, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.

Section 33-2-2. Limitation of pawnbroker licenses.

Not more than twelve (12) places in the County of Fairfax shall be licensed where the business of a pawnbroker, including a pawnbroker's sales, may be conducted.

In the event that a properly licensed pawnbroker sells his business, the circuit court shall authorize the Director to issue to the purchaser a new license for the same location if the purchaser has not been convicted of a felony or a crime involving moral turpitude in the last ten

(10) years. Prior to the issuance of the license, the purchaser shall pay a fee of \$25 and furnish his date of birth and such other information as may be required by the Director.

Section 33-2-3. Issuance of pawnbroker licenses.

A. No person shall engage in the business of a pawnbroker without having a valid license issued by the Director.

B. Upon authorization of the circuit court, the Director may issue to any individual, who has not been convicted of a felony or a crime involving moral turpitude in the last ten (10) years, a license to engage in the business of a pawnbroker in the county. No such license shall be issued by the Director except with such authority from the circuit court. Prior to the issuance of the license, the applicant shall pay an annual fee of \$25 and furnish his date of birth, a sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or without the Commonwealth of Virginia, and such other information as may be required by the Director. The license shall designate the building in which the licensee shall carry on such business.

C. This license shall be valid for one year from the date issued and may be renewed in the same manner as such permit was initially obtained with an annual fee of \$25. No license shall be transferable.

D. No person shall engage in the business of a pawnbroker in any location other than the one designated in his license, except with consent of the court which authorized the license.

E. Any person who violates the provisions of this section shall be guilty of a Class 1 misdemeanor. Each day's violation shall constitute a separate offense.

33-2-4. Daily Reports.

A. Every pawnbroker shall prepare a daily report of all goods, articles, or things pawned or pledged with him or sold to him that day, and shall file such report by noon of the following day with the Chief of Police or designee. The report shall include the pledger's or seller's name, residence, and driver's license number or other form of identification; a photograph or digital image of the form of identification used by the pledger or seller; and a description of the goods, articles, or other things pledged or sold and, unless maintained in electronic format, shall be in writing and clearly legible to any person inspecting it. A pawnbroker shall file the required daily reports electronically with the appropriate law-enforcement officer through any electronic means of reporting approved by the Chief of Police.

33-2-5. Penalties

Except as otherwise provided in 33-2-3, any licensed pawnbroker who violates any of the provisions of this chapter shall be guilty of a Class 4 misdemeanor. In addition, the court may revoke or suspend the pawnbroker's license for second and subsequent offenses.

Board Agenda Item
October 18, 2016

4:00 p.m.

Public Hearing on Proposed Plan Amendment 2013-I-MS1, Merrifield Suburban Center
(Providence District)

ISSUE:

Plan Amendment (PA) 2013-I-MS1 proposes to amend the Comprehensive Plan guidance for the Merrifield Suburban Center, located south of I-66, north of Woodburn Road, west of Holmes Run, and east of Long Branch Stream Valley and Prosperity Avenue in the Providence Supervisor District. The Merrifield Suburban Center implementation update focuses on reviewing and updating the existing Comprehensive Plan language for Merrifield and also assesses the level of implementation of the Merrifield Suburban Center Comprehensive Plan guidance. This update does not propose changes to land use or intensity recommendations.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, September 15, 2016, the Planning Commission voted 10-0 (Commissioners Lawrence and Strandlie were absent from the meeting) to recommend to the Board of Supervisors the adoption of the staff recommendation for Plan Amendment 2013-I-MS1, as found in Attachment I of the Staff Report with the additional editorial clarifications listed in the September 15, 2016 handout.

RECOMMENDATION:

The County Executive recommends that the Board adopt the Planning Commission recommendation.

TIMING:

Planning Commission public hearing – September 15, 2016
Board of Supervisors' public hearing – October 18, 2016

BACKGROUND:

On July 9, 2013, as a part of the Fairfax Forward Comprehensive Plan Amendment Work Program, the Board authorized PA 2013-I-MS1 for portions of Tax Maps 49-1, 49-2, 49-3, 49-4, 50-3, 59-1, and 59-2 to review and update the existing Comprehensive Plan language for Merrifield and also assesses the level of implementation of the Merrifield

Board Agenda Item
October 18, 2016

Suburban Center Comprehensive Plan guidance. This update does not propose changes to land use or intensity recommendations.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt
Attachment 2: Planning Commission Alternative to the Staff Recommendation

The Staff Report for 2013-I-MS1 has been previously furnished and is available online at: http://www.fairfaxcounty.gov/dpz/comprehensiveplan/amendments/2013-i-ms1_staff_report.pdf

STAFF:
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Marianne R. Gardner, Director, Planning Division (PD), DPZ
Leanna H. O'Donnell, Branch Chief, Planning Division (PD), DPZ
Mike D. Van Atta, Planner II, Policy and Plan Development Branch, PD, DPZ

Planning Commission Meeting
September 15, 2016
Verbatim Excerpt

PA 2013-I-MS1 - MERRIFIELD SUBURBAN CENTER INCLUDING DUNN LORING
TRANSIT STATION AREAS

After Close of the Public Hearing

Chairman Murphy: The public hearing is closed. Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. This also is a straightforward Plan Amendment. The size of the staff report might convince you otherwise, but this is really updating and correcting some outdated terms. As staff indicated, the Amendment - as staff indicated in the staff report, staff indicated that the Amendment proposes revisions to the Comprehensive Plan guidance to ensure the guidance is updated to current conditions. The recommended revisions are essentially editorial and do not propose any land use or intensity changes for the area. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF THE STAFF RECOMMENDATION FOR PLAN AMENDMENT 2013-I-MS1, AS FOUND IN ATTACHMENT 1 OF THE STAFF REPORT WITH THE ADDITIONAL EDITORIAL CLARIFICATIONS LISTED IN THE SEPTEMBER 15, 2016 HANDOUT.

Commissioners Hedetniemi and Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant and Ms. Hedetniemi. Is there a discussion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt PA 2013-I-MS1, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

(The motion carried by a vote of 10-0. Commissioners Lawrence and Strandlie were absent from the meeting.)

JLC

**MOTION
PLANNING COMMISSION**

Planning Commissioner James R. Hart
At-Large

PLAN AMENDMENT 2013-I-MS1
September 15, 2016

Approval Motion:

As staff indicated, the amendment proposes revisions to the Comprehensive Plan guidance to ensure the guidance is updated to current conditions. The recommended revisions are editorial and do not propose any land use or intensity changes for the area.

Mr. Chairman, I move that the Planning Commission recommend to the Board of Supervisors the adoption of the staff recommendation for Plan Amendment 2013-I-MS1 as found in Attachment 1 of the staff report, with the additional editorial clarifications listed in the September 15, 2016 handout.

End of Motion

Proposed revisions to the staff recommendations as found in Attachment 1 of the staff report:

General

1. Page 21, Figure 2, delete the period between D and U.
2. Page 41, under "Building and Site Design Guidelines for the Remainder of the Merrifield Suburban Center," first bullet, fourth line, replace "setback" with "set back."
3. Page 45, Figure 8, Note B, second line, delete the comma.
4. Page 84, fourth bullet, replace "Haymaker" with "Hamaker."
5. Page 148, second paragraph under "Land Unit J," remove the strikethrough from the end of the first line and the second line to retain the current Plan language.

Land Unit L (revisions shown in entirety below)

1. Page 159, first paragraph, eleventh line, add "49-3((9))" before the phrase "6 and 6A in Sub-Unit L3."
2. Page 159, first bullet, remove the strikethrough from the first and second lines, and remove the uppercase letter "A" to retain the current Plan language.

3. Page 160, first paragraph under “Sub-Unit L3,” remove the strikethrough beginning on the sixth line through the eighth line to retain the current Plan language, except for the phrase “developed and” in the seventh line, which should be deleted. Replace “Parcel 49-3((1))135” in the seventh line with “Parcel 49-3((1))104C.”
4. Page 160, second paragraph under “Sub-Unit L3,” add the phrase “for the area south of Pennell Street (Parcels 49-3((36))1 and 2)” after the phrase “Any development proposal.”
5. Pages 160-161, remove the first, third, and fourth bullets, and move the fifth and sixth bullets to come after the eighth bullet to retain the order of existing Plan language. Remove the phrase “south of Pennell Street” from the first line of bullet eight and from the first line of bullet 9 due to revision item number 4 above.
6. Page 161, in the “Option” paragraph, eighth line, capitalize “Parcels.”
7. Page 161, in the “Option” paragraph, tenth line, add the sentence “If Parcels 49-3((9))6 and 6A are added to this consolidation, the guidelines listed for the L2 Option should apply” after the phrase “363,124 square feet” to reference existing Plan language.
8. Page 161, in the paragraph after the “Option” paragraph, second line, add the phrase “for the area south of Pennell Street (Parcels 49-3((36))1 and 2),” after the phrase “base Plan.”
9. Page 161, in the “Height Limit” paragraph, second and third lines, capitalize the word “Parcel.”

The following proposed text shows the revisions to Land Unit L as described above:

Recommended modifications to the Comprehensive Plan are shown as underlined for text to be added and as ~~strikethrough~~ as text to be deleted.

RECOMMENDATION

MODIFY: Fairfax County Comprehensive Plan, 2013 Edition, The Merrifield Suburban Center, as amended through October 20, 2015, Land Unit Recommendations, page 101-102:

“Sub-Unit L2

Sub-Unit L2 is located east of Sub-Unit L1 ~~and~~, south of Arlington Boulevard, and consists of ~~is planned with office and institutional uses. Parcel 49-3((1))101A, which is developed and planned with institutional use, up to .15 FAR.~~ Any expansion of existing institutional use or new institutional use up to .15 FAR should retain a substantial vegetative buffer area (i.e., a minimum of 75 feet in width) adjacent to the residential area to the south. ~~Parcel 49-3((1))104B is developed at approximately .25 FAR and planned for office use up to .5 FAR. Parcels 49-3((9))6 and 6A, if consolidated with each other, are planned for office use up to .25 FAR; without consolidation of the two parcels, office use should not exceed .15 FAR.~~ Any modification, expansion, and/or reuse of the existing buildings should be consistent with guidelines for Existing Uses and Buildings under the Area-Wide Land Use section. As an option,

~~Options: If Parcel 101A consolidates with Parcels 49-3((9))6 and 6A in Sub-Unit L3 consolidate, office use up to .4 FAR may be appropriate. If parcel 49-3((1))104B is included in the consolidation (i.e. consolidation of the entire sub-unit), as well as any remaining unconsolidated property in Sub-unit L4 (i.e. parcel 49-3((9))4), office use up to .60 FAR may be appropriate provided that parcel 4, which is south of Pennell Street, is limited to an intensity not to exceed .15 FAR.~~

~~As another option, parcels 49-3((9))6 and 6A could consolidate with Sub-unit L3 and L4 as indicated under Sub-unit L3's option with consolidation. If all property in Sub-units L2, L3 and L4 has been consolidated, except for parcels 101A and 104B, then parcels 101A and 104B may be appropriate for office use up to .60 FAR if 101A and 104B consolidate with each other.~~

Under all the above options, all applicable Area-wide recommendations should apply as well as the following guidelines:

- Development proposals in this sub-unit should provide for interparcel access that connects Pennell Street to the Arlington Boulevard service road. In addition, any development proposal should provide for the extension of the service road along Arlington Boulevard between Sub-units L1 and L2.
- At a minimum, a 75-foot wide landscape buffer and screening area with a 6-foot solid barrier wall or solid barrier fence should be provided adjacent to the Pine Ridge subdivision. The solid barrier wall or solid barrier fence should be sited to preserve mature trees and should be placed where it will most effectively screen the proposed use from the first floor level of the dwelling units in the Pine Ridge Subdivision, with preference for the wall to be located in the northern portion of the buffer area. For buffer area, clearing or grading should be minimized and additional supplemental plantings should be provided to ensure adequate screening.
- Support retail and service uses should be provided and integrated within the office buildings to serve the needs of the tenants, as well as the surrounding area.
- Development should be designed with parking structures behind and/or under buildings.
- Drive-through commercial facilities are not appropriate on property fronting or having direct access to Pennell Street.
- Lighting and signs should be designed and located to minimize visual impacts on the adjacent Pine Ridge Community. For instance, parking lot lights should be directed towards Arlington Boulevard, away from the Pine Ridge community.

Height Limit: The maximum building height in this sub-unit is 75 feet. The tallest buildings should be adjacent to Arlington Boulevard, away from the residential areas. Building heights within 130 feet of the adjacent residential area, ~~as well as parcels 49-3((9))6 and 6A~~, should be limited to 35 feet. See the Building Heights Map, Figure 8-6, and the Building Height Guidelines under the Area-Wide Urban Design section.

Sub-Unit L3

Sub-Unit L3 is located to the east of Sub-Unit L2, is bounded by Route 50 on the north, ~~and Williams Drive on the east, and the Pine Ridge subdivision to the south.~~ This Sub-Unit is planned for office uses with support retail and service uses. The area south of Pennell Street between Sub-Unit L2 and Williams Drive is planned for and developed with office use up to .25 FAR. Parcels 49-3((9))6 and 6A, if consolidated with each other, are planned for office use up to .25 FAR; without consolidation of the two parcels, office use should not exceed .15 FAR. Parcel 49-3((1))104C35 is ~~developed and~~ planned with office use up to .5 FAR. Parcels 49-3((9))7A and 11A are developed at approximately .64 FAR and planned with office use up to .7 FAR. Any modification, expansion, and/or reuse of the existing buildings

should be consistent with guidelines for Existing Uses and Buildings under the Area-Wide Land Use section.

Any development proposal for the area south of Pennell Street (Parcels 49-3((36))1 and 2) must address all applicable Area-Wide recommendations as well as the following guidelines:

- At a minimum, a 75-foot wide buffer area with a 6-foot solid barrier wall or solid barrier fence should be provided adjacent to the Pine Ridge subdivision. The solid barrier wall or solid barrier fence should be sited to preserve mature trees and should be placed where it will most effectively screen the proposed use from the first floor level of the dwelling units in the Pine Ridge Subdivision, with preference for the wall to be located in the northern portion of the buffer area. A 35-foot wide buffer area with a 6-foot solid barrier wall should be provided adjacent to Parcel 49-3((10))6. This 35-foot buffer area should be measured from the western boundary of the existing Williams Drive right-of-way. For both buffer areas, clearing or grading should be minimized and additional supplemental plantings should be provided to ensure adequate screening.
- Access should be only northward to Arlington Boulevard. Williams Drive should not connect to Highland Lane.
- The style of office structures should be residential in appearance which may be accomplished by incorporating residential materials in the facade of the buildings, by breaking roof lines and other facades, and by using such features as mansard or gabled roofs. The office structures should have a maximum building height of 35 feet and should be designed to function as a transition between the single-family residential area to the south and the more intensive office development to the north.
- Drive-through commercial facilities are not appropriate.
- Lighting and signs should be designed and located to minimize visual impacts on the adjacent Pine Ridge Community. For instance, parking lot lights should be directed towards Arlington Boulevard, away from the Pine Ridge community.
- Development of these parcels should include on-site stormwater detention facilities sufficient to address flooding problems in the Pine Ridge community; or as an alternative, off-site stormwater management that utilizes the nearby regional stormwater management facility may be considered, if BMPs are provided. To achieve that objective, it may be necessary to design such facilities to meet standards in excess of those normally required under Fairfax County Ordinances and the Public Facilities Manual.
- Consideration should be given to the vacation or abandonment of Pennell Street provided that, at a minimum, an ingress/egress easement is granted to any unconsolidated properties fronting on Pennell Street as well as parcel 49-3((1))101A. Intensity (FAR) credit may be considered for the land area of the vacation or abandonment as long as the maximum building area square footages as set forth below are not exceeded.

Option: As an option, if a development proposal consolidates all parcels in this sub-unit with the majority of property south of Pennell Street, with the exception of Parcels 49-3((9))6 and 6A, in Sub-unit L4 (i.e. at a minimum parcels 49-3((9))1B, 2, 2A and 3), the consolidated area may be appropriate for an overall intensity that does not exceed .68 FAR. With minimum consolidation south of Pennell Street (i.e. parcels 49-3((9))1B, 2, 2A and 3) the total building area under this option should not exceed 272,000 square feet. With total consolidation south of Pennell Street, the total building area under this option should not

exceed 343,12400,000 square feet. If ~~P~~parcels 49-3((9))6 and 6A on the north side of Pennell Street in ~~Sub-unit L2~~ are added to this consolidation, an additional 20,000 square feet of development may be appropriate resulting in a maximum development potential under this option of 363,12420,000 square feet. If Parcels 49-3((9))6 and 6A are added to this consolidation, the guidelines listed for the L2 Option should apply. In all cases, the portion south of Pennell Street is limited to an intensity not to exceed .2+5 FAR. In addition, all applicable Area-wide recommendations should apply.

Under all the above options, all applicable area-wide recommendations should apply as well as guidelines for development at the base Plan for the area south of Pennell Street (Parcels 49-3((36))1 and 2), which include a minimum 75-foot buffer with a barrier wall or fence, access limitations, and structures having a residential appearance.

Height Limit: The maximum building height in this sub-unit is 35 feet for the parcels south of Pennell Street and on Parcels 49-3((9))6 and 6A, 75 feet on ~~P~~parcel 49-3((9))7A, and 90 feet on ~~p~~Parcels 49-3((1))104C35 and 49-3((9))11A. See the Building Heights Map, Figure 8+6, and the Building Height Guidelines under the Area-Wide Urban Design section.”

Board Agenda Item
October 18, 2016

4:00 p.m.

Public Hearing to Consider Adopting an Ordinance Expanding the Culmore Residential Permit Parking District, District 9 (Mason District)

ISSUE:

Public Hearing to consider a proposed amendment to Appendix G, of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to expand the Culmore Residential Permit Parking District (RPPD), District 9.

RECOMMENDATION:

The County Executive recommends that the Board adopt an amendment (Attachment I) to Appendix G, of the Fairfax County Code, to expand the Culmore RPPD, District 9.

TIMING:

On September 20, 2016, the Board authorized a Public Hearing to consider the proposed amendment to Appendix G, of the Fairfax County Code, to take place on October 18, 2016, at 4:00 p.m.

BACKGROUND:

Section 82-5A-4(b) of the Fairfax County Code, authorizes the Board to establish or expand an RPPD in any residential area of the County if: (1) the Board receives a petition requesting establishment or expansion of an RPPD that contains signatures representing at least 60 percent of the eligible addresses of the proposed District and representing more than 50 percent of the eligible addresses on each block of the proposed District, (2) the proposed District contains a minimum of 100 contiguous or nearly contiguous on-street parking spaces 20 linear feet in length per space, unless the subject area is to be added to an existing district, (3) 75 percent of the land abutting each block within the proposed District is developed residential, and (4) 75 percent of the total number of on-street parking spaces of the petitioning blocks are occupied, and at least 50 percent of those occupied spaces are occupied by nonresidents of the petitioning blocks, as authenticated by a peak-demand survey. In addition, an application fee of \$10 per petitioning address is required for the establishment or expansion of an RPPD. In the case of an amendment expanding an existing District, the foregoing provisions apply only to the area to be added to the existing District.

Board Agenda Item
October 18, 2016

On April 25, 2016, a peak parking demand survey was conducted for the requested area. The results of this survey verified that more than 75 percent of the total number of on-street parking spaces of the petitioning blocks were occupied by parked vehicles, and more than 50 percent of those occupied spaces were occupied by nonresidents of the petitioning blocks. All other requirements to expand the RPPD have been met.

FISCAL IMPACT:

The cost of sign installation is estimated at \$1,000 to be paid from Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:

Attachment I: Proposed Amendment to the Fairfax County Code
Attachment II: Map Depicting Proposed Limits of RPPD Expansion
Attachment III: Map Depicting Proposed Limits of RPPD Expansion

STAFF:

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT
Neil Freschman, Chief, Traffic Engineering Section, FCDOT
Maria Turner, Sr. Transportation Planner, FCDOT
Charisse Padilla, Transportation Planner, FCDOT

ATTACHMENT I

Proposed Amendment

Amend *The Code of the County of Fairfax, Virginia*, by adding the following streets in Appendix G-9, Section (b), (2), C Residential Permit Parking District, in accordance with Article 5A of Chapter 82:

Church Street (Route 2945):

From Courtland Drive to Payne Street, south side only

Nevius Street (Route 1888):

From Knollwood Drive to Leesburg Pike

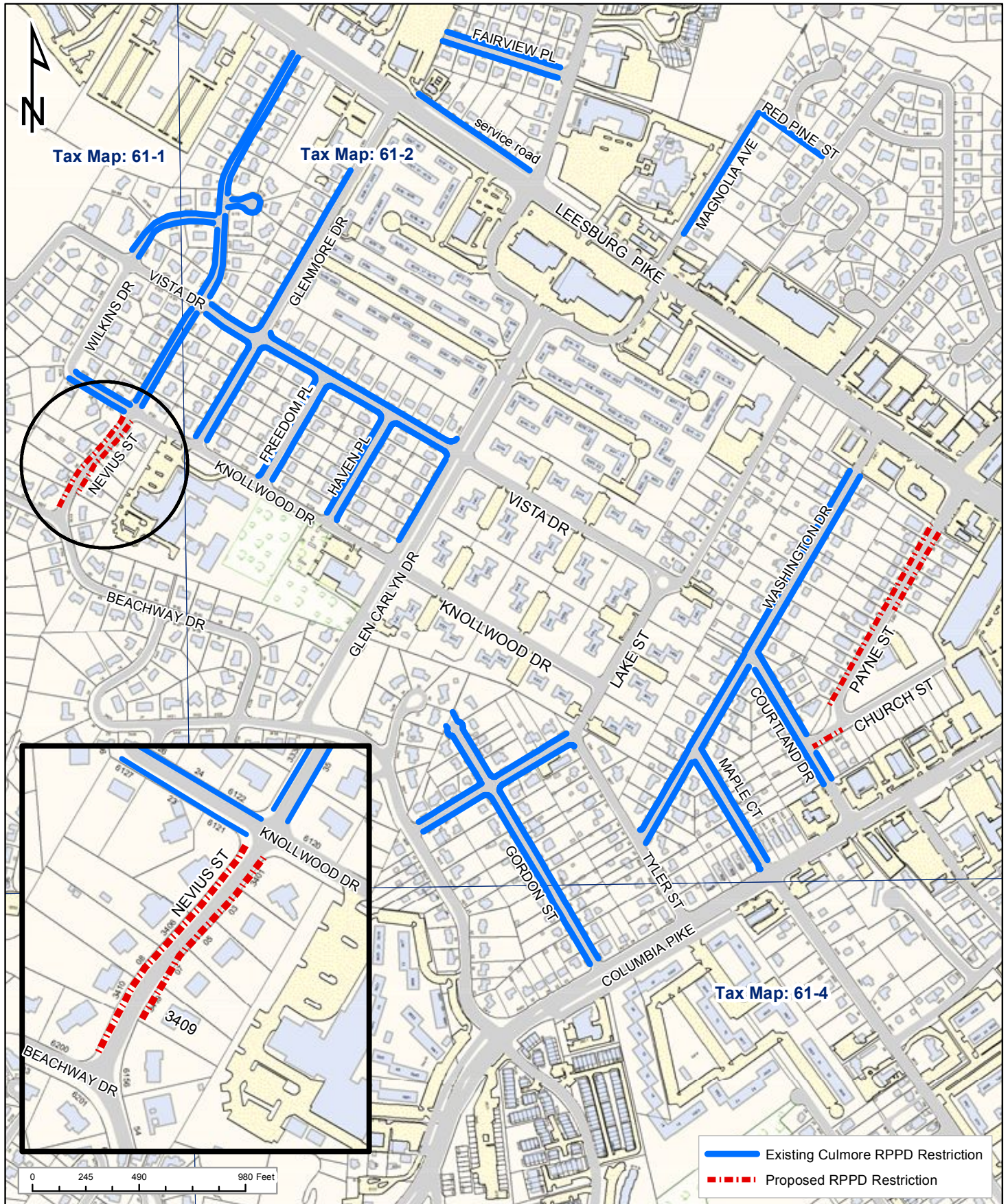
From Beachway Drive to Leesburg Pike, west side only

From the southern property boundary of 3409 Nevius Street to Leesburg Pike, east side only

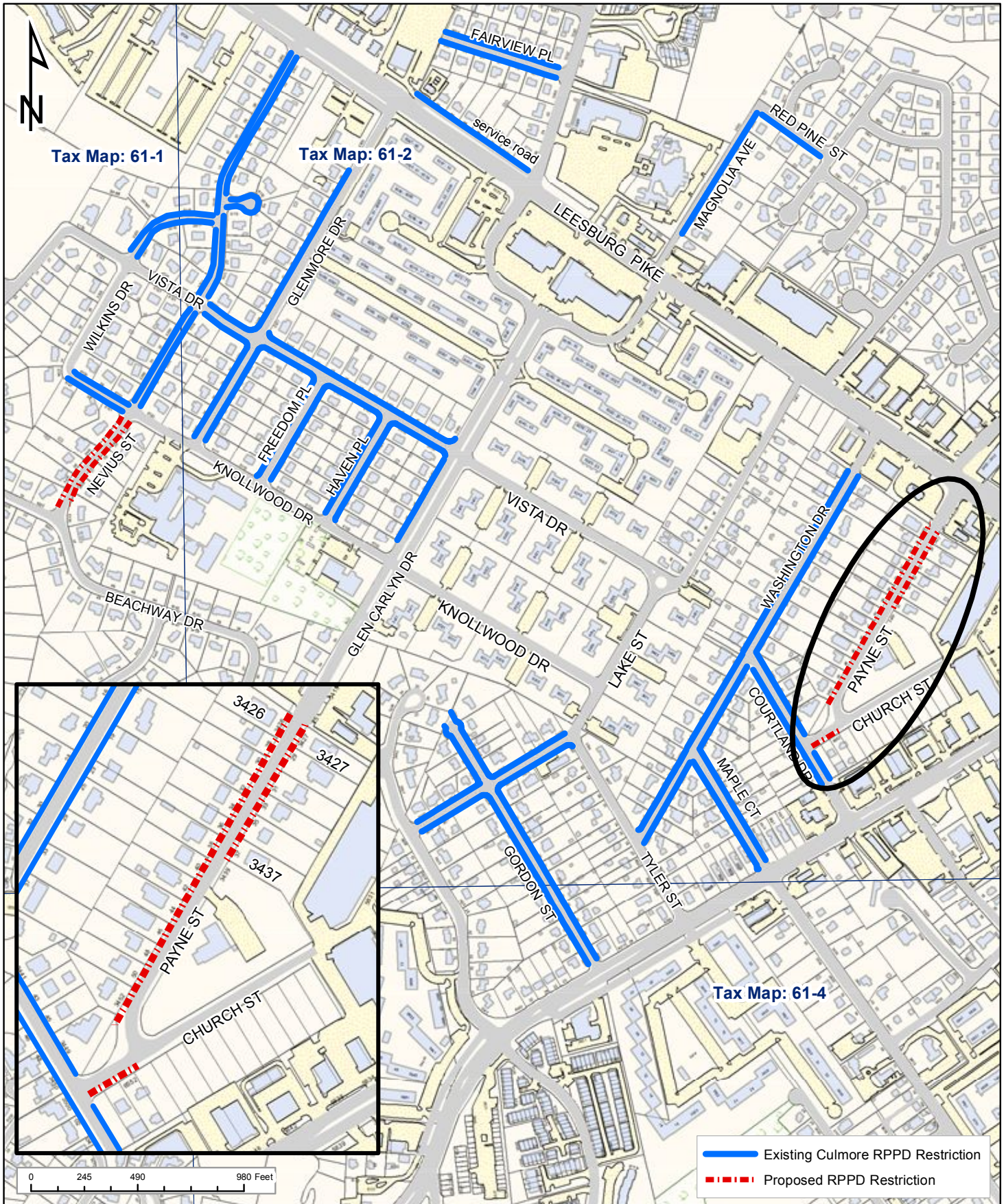
Payne Street (Route 2944):

From the southern property boundary of 3452 Payne Street to the northern property boundary of 3426 Payne Street, west side only

From the southern property boundary of 3437 Payne Street to the northern property boundary of 3427 Payne Street, east side only



Fairfax County Department of Transportation
Traffic Engineering
Culmore Residential Permit Parking District
Mason District



Fairfax County Department of Transportation
 Traffic Engineering
 Culmore Residential Permit Parking District
 Mason District

Board Agenda Item
October 18, 2016

4:00 p.m.

Public Hearing to Consider Adopting an Ordinance Expanding the Springdale Residential Permit Parking District, District 33 (Mason District)

ISSUE:

Public Hearing to consider a proposed amendment to Appendix G, of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to expand the Springdale Residential Permit Parking District (RPPD), District 33.

RECOMMENDATION:

The County Executive recommends that the Board adopt an amendment (Attachment I) to Appendix G, of the Fairfax County Code, to expand the Springdale RPPD, District 33.

TIMING:

On September 20, 2016, the Board authorized a Public Hearing to consider the proposed amendment to Appendix G, of the Fairfax County Code, to take place on October 18, 2016, at 4:00 p.m.

BACKGROUND:

Section 82-5A-4(b) of the Fairfax County Code, authorizes the Board to establish or expand an RPPD in any residential area of the County if: (1) the Board receives a petition requesting establishment or expansion of an RPPD that contains signatures representing at least 60 percent of the eligible addresses of the proposed District and representing more than 50 percent of the eligible addresses on each block of the proposed District, (2) the proposed District contains a minimum of 100 contiguous or nearly contiguous on-street parking spaces 20 linear feet in length per space, unless the subject area is to be added to an existing district, (3) 75 percent of the land abutting each block within the proposed District is developed residential, and (4) 75 percent of the total number of on-street parking spaces of the petitioning blocks are occupied, and at least 50 percent of those occupied spaces are occupied by nonresidents of the petitioning blocks, as authenticated by a peak-demand survey. In addition, an application fee of \$10 per petitioning address is required for the establishment or expansion of an RPPD. In the case of an amendment expanding an existing District, the foregoing provisions apply only to the area to be added to the existing District.

Board Agenda Item
October 18, 2016

On April 25, 2016, a peak parking demand survey was conducted for the requested area. The results of this survey verified that more than 75 percent of the total number of on-street parking spaces of the petitioning blocks were occupied by parked vehicles, and more than 50 percent of those occupied spaces were occupied by nonresidents of the petitioning blocks. All other requirements to expand the RPPD have been met.

FISCAL IMPACT:

The cost of sign installation is estimated at \$600 to be paid from Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:

Attachment I: Proposed Amendment to the Fairfax County Code
Attachment II: Map Depicting Proposed Limits of RPPD Expansion

STAFF:

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT
Neil Freschman, Chief, Traffic Engineering Section, FCDOT
Maria Turner, Sr. Transportation Planner, FCDOT
Charisse Padilla, Transportation Planner, FCDOT

Proposed Amendment

Amend *The Code of the County of Fairfax, Virginia*, by amending the following street descriptions in Appendix G-33, Section (b), (2), Springdale Residential Permit Parking District, in accordance with Article 5A of Chapter 82:

Munson Road (Route 795):

~~From Summers Lane to the north end~~

~~From Arnet Street to Summers Lane~~

~~From Arnet Street to Reservoir Heights Avenue; east side only~~

From Magnolia Lane to the north end; east side only

From Magnolia Lane to the northern property boundary of 3814 Munson Road, west side only

From Reservoir Heights Avenue to the north end, west side only

Fairfax County
Department of Transportation
Traffic Engineering
Springdale RPPD Expansion
Mason District



Tax Map:
61-2

Tax Map:
61-4

- Proposed RPPD Restriction
- Existing Parking Restrictions

0 125 250 500 Feet

Board Agenda Item
October 18, 2016

4:00 p.m.

Public Hearing for the Creation of Small and Local Sanitary Districts for
Refuse/Recycling, and/or Vacuum Leaf Collection Service (Hunter Mill District)

ISSUE:

Public hearing to create Small and Local Sanitary District for refuse/recycling and/or vacuum leaf collection service.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the proposed petition within Hunter Mill District.

<u>Sanitary District</u>	<u>Action</u>	<u>Service</u>	<u>Recommendation</u>
Small District Within Hunter Mill District (Equus Court Area)	Create	Refuse, Recycling, & Vacuum Leaf Collection	Approve

TIMING:

Board of Supervisors' authorization to advertise on September 20, 2016 for a Public Hearing on October 18, 2016, at 4:00 p.m.

BACKGROUND:

The administrative responsibility for the Creation/Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts in the County of Fairfax for refuse/recycling and/or vacuum leaf collection is with the Department of Public Works and Environmental Services. The establishment of sanitary districts is accomplished through the action of the Board of Supervisors at public hearings.

The submitted petitions have been reviewed, and it is recommended that the submitted petitions be approved. If approved, the modifications will become permanent in January 2017.

Board Agenda Item
October 18, 2016

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: Summary Sheet
Attachment 2: Data Sheet with Resolution and Map

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services
(DPWES)
John Kellas, Deputy Director, Department of Public Works and Environmental Services
(DPWES)

SUMMARY SHEET

Proposed alterations to the following small and local sanitary districts for refuse/recycling and/or leaf collection service:

1. Create Small District within Hunter Mill District for the purpose of providing County Refuse, Recycling and Vacuum Leaf Collection Service to the Equus Court area.

DATA SHEET
Create
Small District
Within the Hunter Mill District

Purpose: To provide County Refuse/Recycling and Vacuum Leaf Collection Service to the Equus Court area.

- Petition requesting service received July 27, 2016.
- Petition Area: 80 Properties.
- 51 Property Owners in favor.
- 16 property owners opposed.
- 13 Non-responsive / unable to contact.
- The Department of Public Works and Environmental Services can provide the requested service using existing equipment.
- The Department of Public Works and Environmental Services recommends that the proposed action be approved effective January 1, 2017.

ADOPTION OF A RESOLUTION
TO CREATE
SMALL DISTRICT
WITHIN HUNTER MILL DISTRICT

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center at Fairfax, Virginia, on Tuesday the 18th day of October, 2016 at which a quorum was present and voting, the following resolution to be effective January 1, 2017, was adopted:

WHEREAS, Virginia Code Section 15.2-858, as amended, provides for, among other things, the creation by the Board of Supervisors of Fairfax County, Virginia, of a small sanitary district by resolution; and

WHEREAS, the Board of Supervisors has been presented with facts and information upon consideration of which said Board, finding the property embraced in the proposed small sanitary district will be benefited by creating the small sanitary district for the purpose of providing refuse, recycling and vacuum leaf collection for the citizens who reside therein.

NOW, THEREFORE, BE IT RESOLVED, that there is hereby created by the Board of Supervisors of Fairfax County, Virginia, pursuant to Virginia Code Section 15.2-858, as amended, to be known as, Small District within Hunter Mill District to include the Equus Court area, Fairfax County, Virginia, which said small sanitary district shall be described as follows:

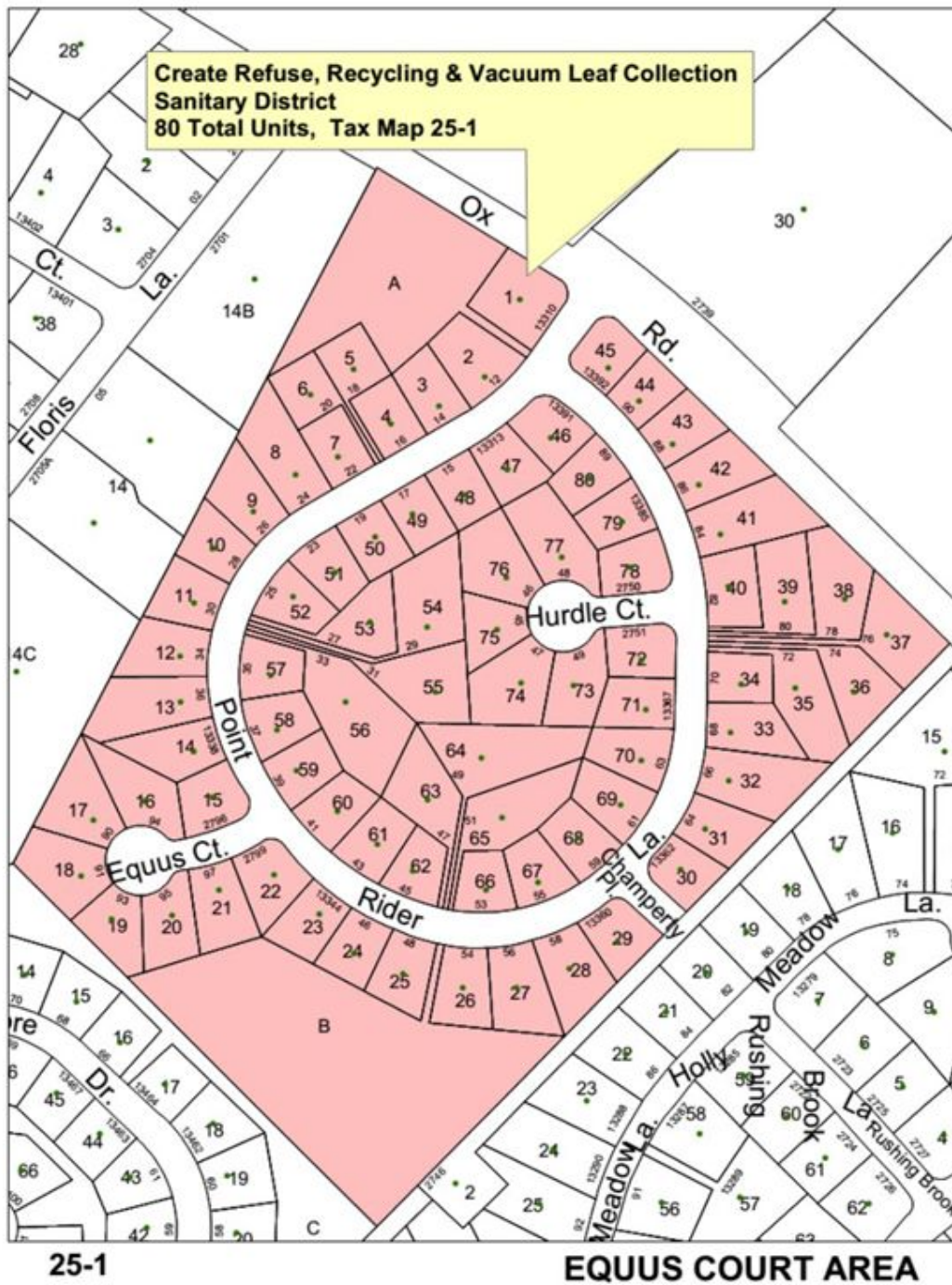
The creation of Small District within Hunter Mill District to include the Equus Court area located in the County of Fairfax, Herndon, Virginia and as shown on the attached map.

AND BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, declares its intention to implement the purpose for which said Small District within Hunter Mill District is hereby created to wit:

To provide for refuse, recyclables and vacuum leaf collection for the citizens who reside therein.

Given under my hand this ____ day of October, 2016

Catherine A. Chianese
Clerk to the Board of Supervisors



4:00 p.m.

Public Hearing for the De-Creation/Re-Creation of Small and Local Sanitary Districts for Refuse/Recycling, and/or Vacuum Leaf Collection Service (Mount Vernon District)

ISSUE:

Public hearing to De-Creation/Re-Creation of Small and Local Sanitary District for refuse/recycling and/or vacuum leaf collection service.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the proposed petition within Mount Vernon District.

<u>Sanitary District</u>	<u>Action</u>	<u>Service</u>	<u>Recommendation</u>
Small District 1 Within Mount Vernon District (Culver Place Area)	De-Create/ Re-Create	Add Vacuum Leaf Collection	Approve

TIMING:

Board of Supervisors' authorized to advertise on September 20, 2016 for a Public Hearing on October 18, 2016, at 4:00 p.m.

BACKGROUND:

The administrative responsibility for the Creation/Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts in the County of Fairfax for refuse/recycling and/or vacuum leaf collection is with the Department of Public Works and Environmental Services. The establishment of sanitary districts is accomplished through the action of the Board of Supervisors at public hearings.

The submitted petitions have been reviewed, and it is recommended that the submitted petitions be approved. If approved, the modifications will become permanent in January 2017.

Board Agenda Item
October 18, 2016

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: Summary Sheet
Attachment 2: Data Sheet with Resolution and Map

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services
(DPWES)
John Kellas, Deputy Director, Department of Public Works and Environmental Services
(DPWES)

SUMMARY SHEET

Proposed alterations to the following small and local sanitary districts for refuse/recycling and/or leaf collection service:

1. De-create/Re-create Small District 1 within Mount Vernon District for the purpose of providing County Refuse, Recycling and adding Vacuum Leaf Collection Service to the Culver Place area.

DATA SHEET
De-Create/Re-Create
Small District 1
Within the Mount Vernon District

Purpose: To provide County Refuse/Recycling and Vacuum Leaf Collection Service to the Culver Place area.

- Petition requesting service received November 20, 2015.
- Petition Area: 82 Properties.
- 47 Property Owners in favor.
- 19 property owners opposed.
- 16 Non-responsive / unable to contact.
- The Department of Public Works and Environmental Services can provide the requested service using existing equipment.
- The Department of Public Works and Environmental Services recommends that the proposed action be approved effective January 1, 2017.

ADOPTION OF A RESOLUTION
TO DE-CREATE/RE-CREATE
SMALL DISTRICT 1
WITHIN MOUNT VERNON DISTRICT

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center at Fairfax, Virginia, on Tuesday the 18th day of October, 2016 at which a quorum was present and voting, the following resolution to be effective January 1, 2017, was adopted:

WHEREAS, Virginia Code Section 15.2-858, as amended, provides for, among other things, the de-creation/re-creation by the Board of Supervisors of Fairfax County, Virginia, of a small sanitary district by resolution; and

WHEREAS, the Board of Supervisors has been presented with facts and information upon consideration of which said Board, finding the property embraced in the proposed small sanitary district will be benefited by de-creating/re-creating the local sanitary district for the purpose of adding vacuum leaf collection to current service of refuse and recyclables collection for the citizens who reside therein.

NOW, THEREFORE, BE IT RESOLVED, that there is hereby de-created/re-created by the Board of Supervisors of Fairfax County, Virginia, pursuant to Virginia Code Section 15.2-858, as amended, to be known as, Small District 1 within Mount Vernon District, Fairfax County, Virginia, which said local sanitary district shall be described as follows:

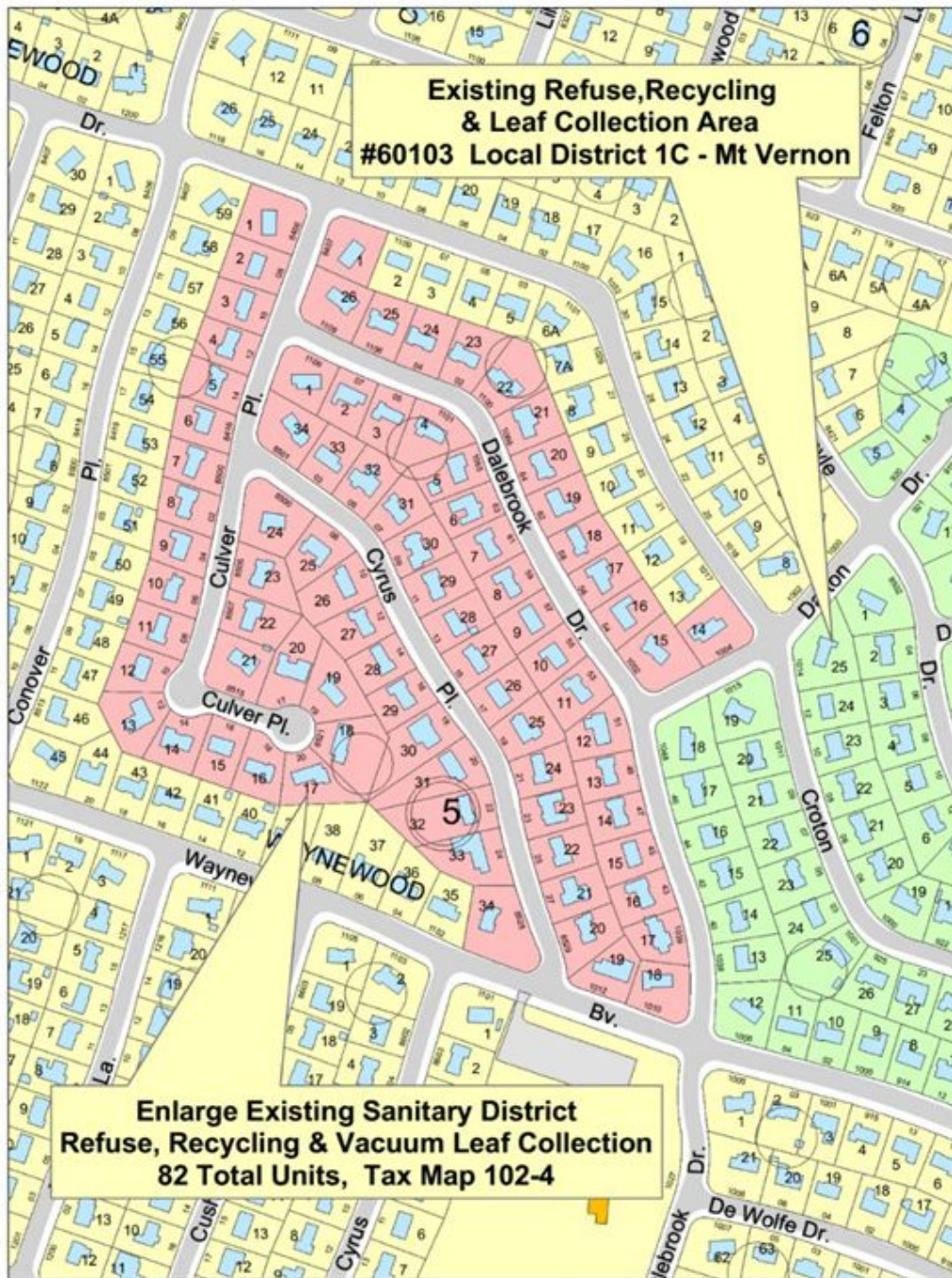
The de-creation/re-creation of Small District 1 within Mount Vernon District to include the Culver Place area located in the County of Fairfax, Alexandria, Virginia and as shown on the attached map.

AND BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, declares its intention to implement the purpose for which said Small District 1 within Mount Vernon District is hereby de-created/re-created to wit:

To provide for refuse, recyclables and vacuum leaf collection for the citizens who reside therein.

Given under my hand this ____ day of October, 2016

Catherine A. Chianese
Clerk to the Board of Supervisors



102-4

Culver Place Area

Board Agenda Item
October 18, 2016

4:30 p.m.

Public Hearing on a Proposal to Prohibit Through Truck Traffic on Washington Drive, Tyler Street, Payne Street, Church Street and Courtland Drive (Mason District)

ISSUE:

Public hearing for the purpose of endorsing the following roads to be included in the Residential Traffic Administration Program (RTAP) for a through truck traffic restriction:

- Washington Drive and Tyler Street between Leesburg Pike and Columbia Pike.
- Payne Street, Church Street and Courtland Drive between Leesburg Pike and Columbia Pike.

RECOMMENDATION:

The County Executive recommends that the Board approve the attached resolution (Attachment I) endorsing this road to be included in the RTAP for a through truck traffic restriction.

TIMING:

On September 20, 2016, the Board authorized advertisement of a public hearing scheduled for October 18, 2016, at 4:30 p.m.

BACKGROUND:

In correspondences dated March 8, 2016, and June 15, 2016 Supervisor Gross requested staff to work with the Virginia Department of Transportation (VDOT) to implement a through truck traffic restriction on the above referenced roads due to continuing safety concerns of residents regarding through trucks utilizing these roads as a shortcut between Leesburg Pike and Columbia Pike. The increased truck traffic has exacerbated safety concerns for the neighborhood. A possible alternate route is via Leesburg Pike to Columbia Pike (Attachment II & Attachment III).

Section 46.2-809, of the *Code of Virginia* requires a local jurisdiction to hold a duly advertised public hearing on any proposal to restrict through truck traffic on a primary or secondary road. Further, a resolution pertaining to prohibiting through truck traffic on these roads (Attachment I) has been prepared for adoption and transmittal to VDOT which will conduct the formal engineering study of the through truck restriction request.

Board Agenda Item
October 18, 2016

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:

Attachment I: Proposed Resolution to Restrict Through Truck Traffic on
Washington Drive, Tyler Street, Payne Street, Church Street and Courtland Drive
Attachment II: Area Map of Proposed Through Truck Traffic Restriction; Washington
Drive and Tyler Street
Attachment III: Area Map of Proposed Through Truck Traffic Restriction; Payne Street,
Church Street and Courtland Drive

STAFF:

Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric M. Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT
Neil Freschman, Chief, Traffic Engineering Section, FCDOT
Steven K. Knudsen, Transportation Planner, FCDOT

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
THROUGH TRUCK TRAFFIC RESTRICTION
WASHINGTON DRIVE, TYLER STREET, PAYNE STREET
CHURCH STREET AND COURTLAND DRIVE
MASON DISTRICT

WHEREAS, the residents who live along Washington Drive, Tyler Street, Payne Street, Church Street and Courtland Drive have expressed concerns regarding the negative impacts associated with through truck traffic on these roads; and

WHEREAS, a reasonable alternate route has been identified for Washington Drive and Tyler Street starting at Washington Drive and Leesburg Pike to the intersection of Leesburg Pike and Columbia Pike, and to the intersection of Columbia Pike and Tyler Street; and a reasonable alternate route has been identified for Payne Street, Church Street and Courtland Drive starting at the intersection of Payne Street and Leesburg Pike to the intersection of Leesburg Pike and Columbia Pike, and to the intersection of Columbia Pike and Courtland Drive; and

WHEREAS, it is the intent of the Fairfax County Board of Supervisors to ensure that the proposed through truck restriction be enforced by the Fairfax County Police Department; and

WHEREAS, a public hearing was held pursuant to Section 46.2-809 of the *Code of Virginia*;

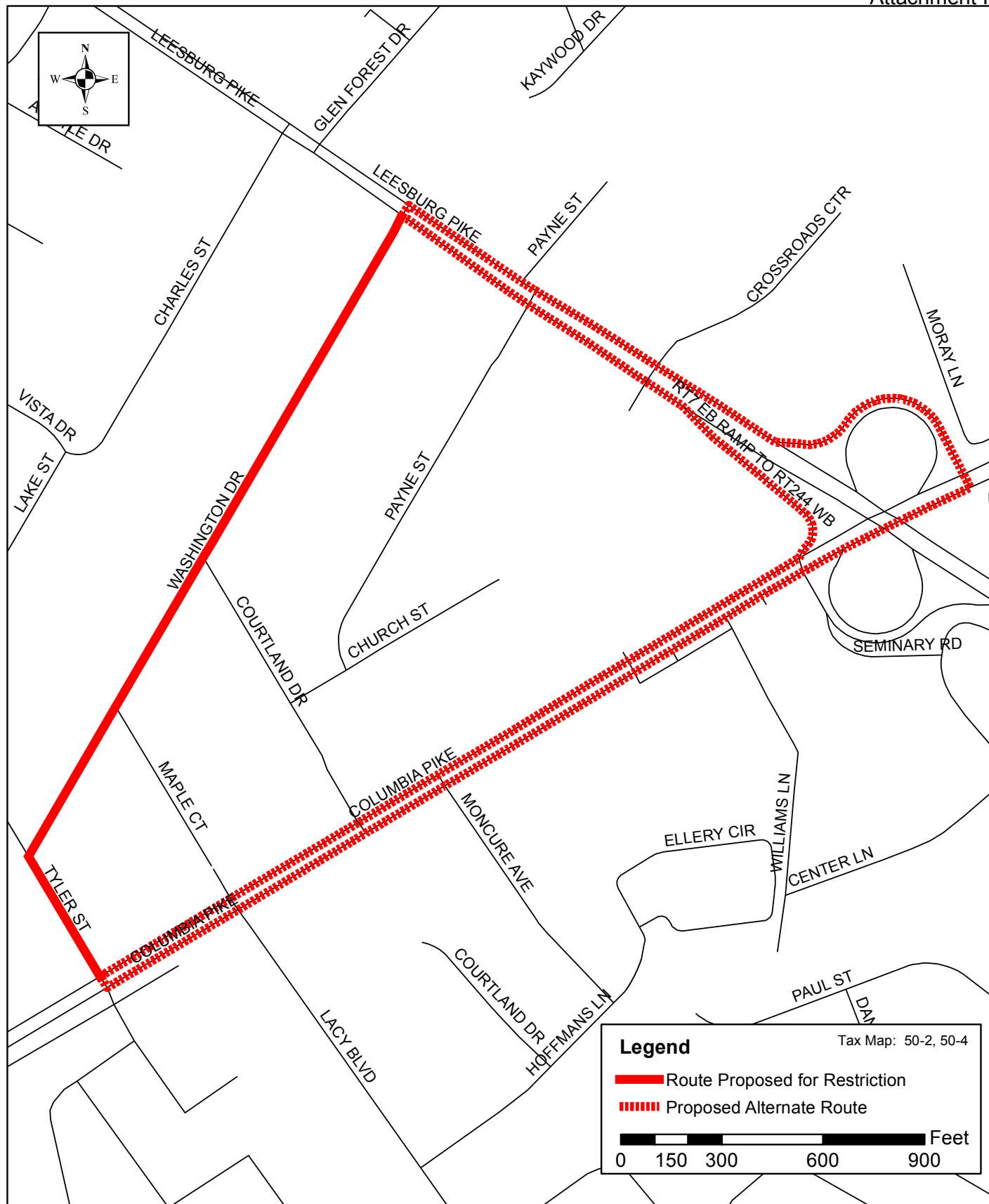
NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, has determined that in order to promote the health, safety, and general welfare of the citizens of Fairfax County, it is beneficial to prohibit through truck traffic on Washington Drive and Tyler Street, and on Payne Street, Church Street and Courtland Drive; between Leesburg Pike and Columbia Pike, as part of the County's Residential Traffic Administration Program (RTAP).

FURTHER BE IT RESOLVED, that the Commonwealth Transportation Board is hereby formally requested to take necessary steps to enact this prohibition.

ADOPTED this 18th day of October, 2016.

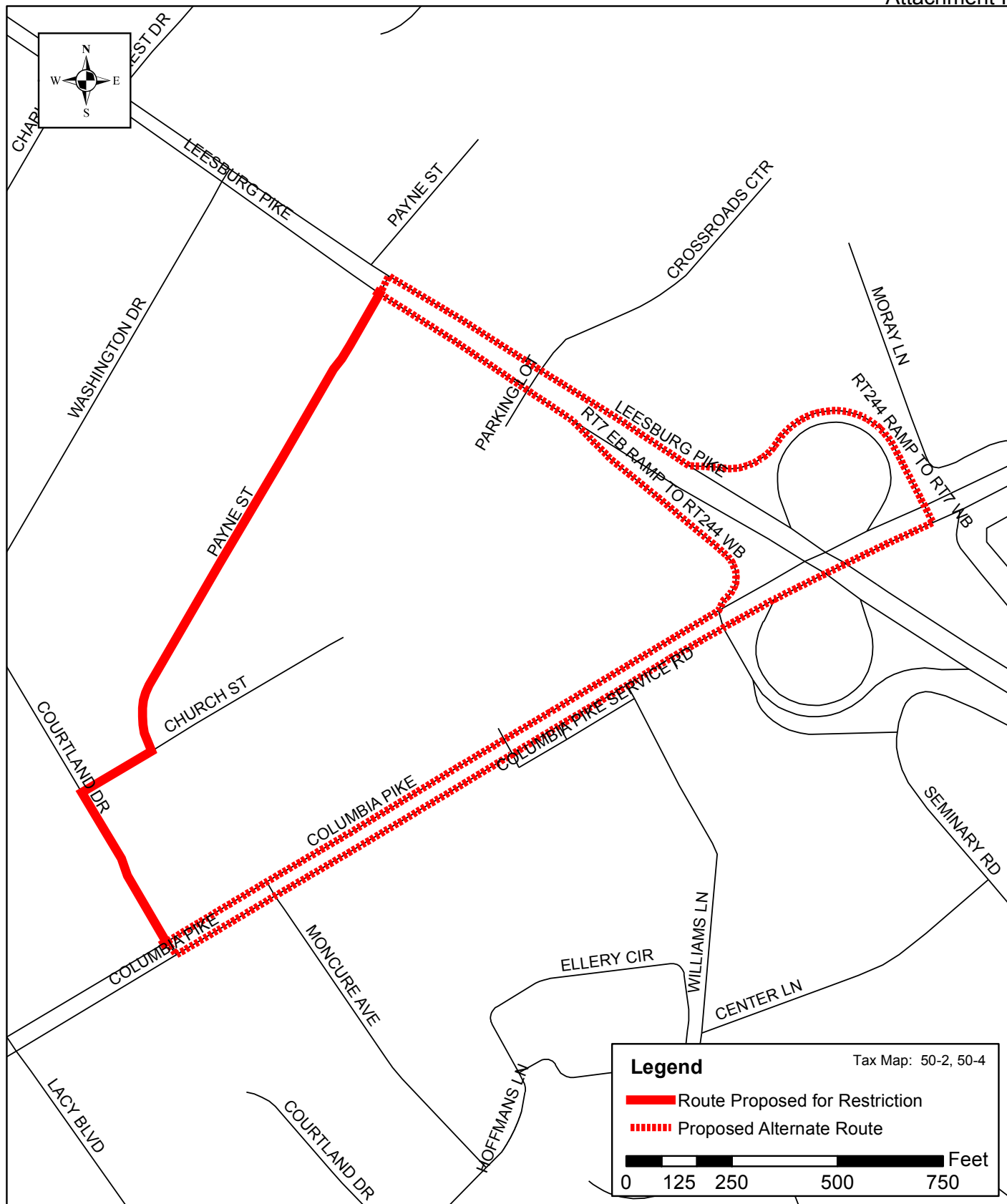
A Copy Teste:

Catherine A. Chianese / Clerk to
the Board of Supervisors



**Fairfax County Department of Transportation
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
PROPOSED THROUGH TRUCK RESTRICTION
WASHINGTON DRIVE & TYLER STREET
Mason District**





Fairfax County Department of Transportation
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
PROPOSED THROUGH TRUCK RESTRICTION
PAYNE STREET, COURTLAND DRIVE,
& CHURCH STREET
Mason District



Board Agenda Item
October 18, 2016

4:30 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Reference Citations for Nursery Schools, Child Care Centers & Veterinary Hospitals; Special Permit Submission Requirements; Variance Standards; and Clarification of the Definition of Public Use

ISSUE:

This proposed amendment consists of several separate items, to include: clarifying the reference of land use limitations for specific permitted uses in the Commercial Districts; changes to the special permit submission requirements for all special permit types, as well as additional changes to select application types; changes to the standards for a variance as applied by the Board of Zoning Appeals (BZA), and the clarification of the definition of a public use.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, October 5, 2016, the Planning Commission voted 7-0 (Commissioners Flanagan, Hedetniemi, Lawrence, Murphy, and Sargeant were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- The adoption of the proposed Zoning Ordinance Amendment regarding reference citations for Nursery Schools, Child Care Centers and Veterinary Hospitals; Special Permit Submission Requirements; Variance Standards; and Definitions of Public Use and School of General Education, effective at 12:01 a.m. on the date following adoption by the Board of Supervisors, subject to the following changes, as noted in the handout dated October 5, 2016:
 - Amend Paragraph 5, of Section 8-305; Paragraph 5, of Section 8-907; and Paragraph 14 of Section 8-918, of the Zoning Ordinance by striking the proposed language that the dimensioned floor plan shall be certified by an engineer, architect, or similar licensed professional;
 - Amend Paragraph 5, of Section 8-305; Paragraph 5, of Section 8-907; and Paragraph 14 of Section 8-918, of the Zoning Ordinance, by deleting the last sentence containing the waiver provisions for the certified dimensioned floor plan, as this is no longer necessary given the proposed changes; and
- Direct staff to re-evaluate the submission of uncertified dimensioned floor plans two years following the adoption of the amendment and report back their findings if appropriate.

RECOMMENDATION:

The County Executive concurs with the Planning Commission recommendation.

TIMING:

Board of Supervisors' granted authorization to advertise on July 26, 2016; the Planning Commission public hearing was held on September 22, 2016; the Planning Commission recommendation was made on October 5, 2016; Board of Supervisors public hearing on October 18, 2016, at 4:30 p.m.

BACKGROUND:

The proposed amendment addresses several items that are identified as Priority 1 items in the 2016 Zoning Ordinance Amendment Work Program, to include special permit submission requirements, changes to the standards for a variance as applied by the Board of Zoning Appeals (BZA), and the clarification of the definition of a public use. Also included is an amendment proposed by staff regarding the use limitations for nursery schools, child care centers and veterinary hospitals. This specific amendment is a formatting clarification as it relates to the organization of the Ordinance provisions and does not constitute any significant change to the existing use limitations for these uses. Specifically, the amendment:

1. Clarifies that nursery schools, child care centers and veterinary hospitals are permitted uses in their respective Commercial Districts subject to specific use limitations by amending the respective "Permitted Use" sections of the Zoning Ordinance to insert cross-references to the corresponding Zoning Ordinance sections that contain the existing use limitations.
2. Amends the submission requirements for all special permits set forth in Sect. 8-011 by making minor changes to reduce the number of copies of the application that is completed and signed by the applicant from four copies to one original copy and to require that the statement confirming ownership of the property be notarized.
3. Amend the Additional Standards for Home Child Care Facilities by replacing the requirement for 10 copies of a plan with a requirement for the submission of 15 large copies and one 8 1/2" x 11" copy of a plat that is certified by a licensed, professional engineer, land surveyor, architect or landscape architect, as well as a dimensioned floor plan of the interior of the dwelling, certified by a licensed, professional engineer, architect or other similarly licensed professional. Such floor plan shall identify all rooms and/or facilities to be used in conjunction with the home child care facility and ingress and egress from the dwelling with corresponding digital photographs of the rooms and/or facilities to be used in conjunction with the home child care facility and points of ingress and egress.

4. Amend the Additional Standards for a Home Professional Office by deleting the renewal provision for applications approved prior to January 24, 1977, and adding a provision requiring a dimensioned floor plan, certified by a licensed, professional engineer, architect or other similarly licensed professional, depicting the internal layout of the residence, gross floor area of and use of each room, identification of all rooms and/or facilities to be used in conjunction with the home professional office, and ingress and egress from the dwelling, with corresponding digital photographs of the rooms and/or facilities to be used in conjunction with the home professional office and ingress and egress from the dwelling.
5. Amend the Additional Standards for an Accessory Dwelling Unit to 1) allow the BZA to approve an alternative entrance location for accessory dwelling units located within the structure of a single family detached dwelling on lots less than 2 acres in area; 2) delete the renewal provision for such applications approved prior to July 27, 1987; 3) add a requirement for the submission of 15 large copies and one 8 1/2" x 11" copy of a plat that is certified by a licensed, professional engineer, land surveyor, architect or landscape architect, with specific requirements for the information to be contained on such certified plat; and 4) insert a requirement for the submission of a dimensioned floor plan, certified by a licensed, professional engineer, architect or other similarly licensed professional, depicting the internal layout and gross floor area of the both the principal and accessory dwelling units, the use of each room, and ingress and egress from each of the dwellings with corresponding digital photographs of all such rooms and ingresses and egresses depicted on the floor plan.
6. Amend those variance provisions found in Sect. 18-404 and Sect. 19-209 of the Zoning Ordinance to conform such provisions to the new standards and requirements for variances that are set forth in Virginia Code § 15.2-2309, as amended in 2015.
7. Amend the definitions of a public use to clarify that uses sponsored or operated by any other county, city or town within the Commonwealth of Virginia other than Fairfax County shall not be deemed a public use and shall be subject to the applicable Zoning Ordinance provisions for such use and to amend the definition of a school of general education to clarify that a school of general education shall include a public school operated by other counties, cities or towns within the Commonwealth of Virginia.

A more detailed discussion is set forth in the Staff Report, enclosed as Attachment 1.

REGULATORY IMPACT:

By clarifying the reference to, and thereby clearly conveying, the by-right requirements for nursery schools, child care centers and veterinary hospitals, this portion of the proposed amendment has no additional regulatory impact. The additional submission requirements for all special permits applications, and the addition of specific submission requirements for home child care facilities, home professional offices and accessory dwelling units will further simplify the existing applications acceptance process by

requiring the necessary information for adequate review by staff and the BZA. The additional application submission requirements for all home child care facilities, home professional offices and accessory dwelling units shall only be required for those applications submitted after the effective date of this Ordinance. The revisions to the variance standards are necessary to bring the Fairfax County Zoning Ordinance into accordance with the revised Virginia Code §15.2-2309, which was signed into law on March 26, 2015. Regarding the proposed changes to the definitions of public use and a school of general education, these changes also seek to clarify existing provisions by further codifying those uses that may be deemed a public use. As such, there is no further regulatory impact from this portion of the proposed text amendment.

FISCAL IMPACT:

The proposed amendment will not require any additional review by staff, rather, in the case of the proposed changes related to special permit submission requirements, it will likely result in a decrease in staff review time. In addition, there will be additional costs to the public in some cases, as a certified plat would be required for submission of a special permit for a home child care facility, and a certified, dimensioned floor plan will be required for submission of a special permit for a home child care facility, a home professional office and an accessory dwelling unit.

ENCLOSED DOCUMENTS:

Attachment 1 – Staff Report

Attachment 2 – Planning Commission Verbatim Excerpt

STAFF:

Robert A. Stalzer, Deputy County Executive

Fred Selden, Director, Department of Planning and Zoning (DPZ)

Leslie B. Johnson, Zoning Administrator, DPZ

Andrew B. Hushour, Deputy Zoning Administrator, DPZ



FAIRFAX
COUNTY

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Reference Citations for Nursery Schools, Child Care Centers & Veterinary Hospitals; Special Permit Submission Requirements; Variance Standards; and Definitions of Public Use and School of General Education

PUBLIC HEARING DATES

Planning Commission

September 22, 2016 at 8:15 p.m.

Board of Supervisors

October 18, 2016 at 4:30 p.m.

**PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314**

July 26, 2016

ABH/MM



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

BACKGROUND

The proposed amendment addresses several items that are identified as Priority 1 items in the 2016 Zoning Ordinance Amendment Work Program, to include special permit submission requirements, changes to the standards for a variance to be granted by the Board of Zoning Appeals (BZA), and changes to the definitions of a public use and school of general education. Also included is an amendment proposed by staff regarding the use limitations for nursery schools, child care centers and veterinary hospitals. This specific amendment is a formatting clarification as it relates to the organization of the Ordinance provisions and does not constitute any significant change to the existing use limitations for these uses.

PROPOSED AMENDMENT

This proposed amendment consists of several separate items, and a description of each is set forth as follows.

Reference Citations for Nursery Schools, Child Care Centers and Veterinary Hospitals

This specific component of the proposed zoning ordinance text amendment is recommended by County staff. Currently, Article 4 of the Zoning Ordinance contains the regulations for all Commercial Districts, which include, among other sections, a listing of Permitted Uses, Special Permit Uses, Special Exception Uses, and specific Use Limitations. Nursery schools and child care centers are identified as permitted uses in the C-1, C-2, C-3 and C-4 Districts, and veterinary hospitals are identified as permitted uses in the C-5, C-6, C-7, C-8 and C-9 Districts. While permitted in those specified zoning districts, these uses are also subject to specific use limitations. However, there is no direct reference to these use limitations in the relevant zoning district sections of permitted uses, which often causes confusion for prospective businesses seeking to establish these uses in the County as many do not know that the limitations exist and are applicable. In order to clearly convey the by right requirements for these specific uses, this portion of the proposed text amendment just seeks to add references to the appropriate, subsequent Zoning Ordinance sections that set forth the use limitations applicable to these uses. Similar reference citations are utilized in other Articles of the Zoning Ordinance.

Special Permit Submission Requirements

This amendment is listed as a Priority 1 item in the 2016 Work Program and includes various changes to the submission requirements for special permit uses found in Article 8 of the Zoning Ordinance. In addition, specific changes are also proposed for applications for home child care facilities, home professional offices and accessory dwelling units. All of these amendments are being proposed in order to improve the accuracy of information that is submitted as part of the submission and review of a special permit application, as well as for the BZA in rendering decisions. It is staff's belief that each of these amendments will reduce the time that an application is in process for application acceptance, a benefit to the applicant as well as to the BZA.

First, two minor amendments are proposed to Paragraphs 1 and 7 of Sect. 8-011, to identify that only a single, original application is required rather than four copies, and that the applicable

ownership statement must be legally notarized. These changes are applicable to all applications for any special permit type.

Second are proposed changes to the additional standards for home child care facilities, as found in Section 8-305. The Board of Supervisors recently made changes to the home child care provisions as part of Zoning Ordinance Amendment ZO 13-440, which was adopted on June 18, 2013, with a follow up amendment ZO 14-444 adopted on February 11, 2014. These amendments sought to better align the Zoning Ordinance provisions with administrative changes that were made by the Virginia Department of Social Services in June of 2012. As a result, the Board amended the Zoning Ordinance to increase the number of children from 10 to 12 that can be cared for in a home child care facility, which is the maximum number of children permitted with a state license. The recent amendments also reduced the filing fees for special permit and special exception applications for home child care facilities and incorporated additional standards and increased flexibility for the BZA, as well as the Board's review of applications within a P-District. At the time the first ordinance was adopted in 2013, there were approximately 450 existing home child care facilities that were currently operating in the County that, depending on the number of children in their care and/or the status of their state license, potentially would require approval of a new special permit or amendment of an existing special permit approval. As a result of this potential influx of applications, County staff developed an assistance program for existing providers that consisted of a public outreach component, a flexible application process, and established "grace periods" extending into 2014 to allow providers ample time to go through the special permit or special exception process.

In an effort to accommodate existing providers, the assistance program has resulted in the acceptance of special permit applications inconsistent with the submission requirements for other special permit types. The most common deficiency is the lack of necessary information concerning the property, such as the location of accessory structures, patios, and other improvements on the subject property in question, as well as a lack of information concerning the internal layout of the residence where the child care activity is occurring. These deficiencies result in a prolonged effort to move an application through the acceptance process, present difficulty for County staff reviewing and analyzing the information for preparation of the necessary staff report, and adds unnecessary complexity to the BZA's and Board's decision making process – all of which extend the special permit process for the applicant. As a result of these impacts, this amendment proposes two changes to the submission requirements for home child care facilities. First, a revision to Par. 4 of Sect. 8-305 is proposed to require the submission of a certified plat, prepared by a licensed professional, instead of a plat prepared by the applicant. This change is necessary in order to provide accurate information as to the existing improvements on the subject property. In addition, the amendment also adds a requirement for submission of a certified dimensioned floor plan of the residence, to include corresponding photographs. Like the certified plat requirement, the dimensioned floor plan and photographs provide accurate information concerning the residence that is necessary to both County staff and the BZA in reviewing an application.

Staff acknowledges that these proposed changes will add additional cost for a provider to process the application. However, having an accurate record of the subject property for a fixed date in time is beneficial to all parties involved, including the applicant. Furthermore, providing accurate information up front as part of the submission process will result in an overall reduction in the

review period throughout the entire public process. It should be noted that many of the home child care providers already provide certified plats in conjunction with their application without issue.

The proposed amendment also recommends similar changes to the additional standards for home professional offices and accessory dwelling units. Concerning home professional offices, staff is proposing to revise the additional standards set forth in Sect. 8-907 to require submission of a certified dimensioned floor plan of the residence to include corresponding photographs. In addition, staff is proposing to delete the existing provision concerning the renewal process for any home professional office approved prior to January 24, 1977, as there is no record to indicate the any such application exists.

Several changes are proposed to Sect. 8-918 Additional Standards for Accessory Dwelling Units. The first of these recommended changes is a revision to Par. 2, which sets forth certain location requirements for an accessory dwelling unit on a subject property. For lots that are 2 acres or less in size, an accessory dwelling unit is only permitted within the structure of a single family detached dwelling unit. Furthermore, this provision states that any added external entrances for the accessory dwelling unit must be located on the side or rear of the structure. This provision has presented some difficulty in cases where entrances are located on the front of a residence but are designed to be within a vestibule or foyer. In order to provide flexibility to the applicants and the BZA in their review of these applications, staff is proposing to amend this section to allow the BZA to approve an alternate entrance location based on the specifics of the application. The second recommended change is the addition of a new Par. 12 to add the same certified dimensioned floor plan and corresponding photograph requirement being proposed for both home child care facilities and home professional offices. Furthermore, while accessory dwelling unit applications are subject to the same, general special permit submission requirements set forth in Sect. 8-011, staff routinely ends up having to modify these submission requirements because many of the plat requirements are not necessary for the review of an accessory dwelling unit. In order to truncate this list of submission requirements, and thereby simplify the process for applicants, staff is recommending to add specific plat requirements for accessory dwelling units. This is similar to those additional standards for other residential special permit applications, such as for a reduction of certain yard requirements found in Sect. 8-922. Lastly, staff is also recommending the deletion of the existing provision setting forth the renewal process for any accessory dwelling unit approved prior to July 27, 1987. This deletion has been recommended as there is no record indicating that any such applications exist.

It should be noted that any changes to the special permit application submission requirements that are ultimately adopted by the Board will only apply to those applications submitted for review following the adoption date of any such zoning ordinance text amendment. Therefore, any application submitted prior to an adoption date will not be subject to the proposed additional requirements.

Variance Standards

This amendment is identified as a Priority 1 item in the 2016 Zoning Ordinance Amendment Work Program and is the result of changes made to the Code of Virginia. The standards for the granting of a variance were modified during the 2015 Regular Session of the Virginia General Assembly,

specifically by House Bill HB 1849, which was signed into law on March 26, 2015. In addition to some minor adjustments to existing code language, HB 1849 revised §15.2-2309 of the *Code of Virginia* to make it more feasible for the Board of Zoning Appeals (BZA) to grant a variance to an applicant by removing the requirement for a property to have extraordinarily unusual topographic or physical conditions. Furthermore, HB 1849 deleted provisions requiring that a variance can only be authorized by the BZA when there is clear demonstration of hardship, and only then when compliance with the intended spirit of the Zoning Ordinance is satisfied and substantial justice has been served. New language was added stating that a variance shall be granted if failure to grant the variance would unreasonably restrict utilization of the property and the granting of the variance would alleviate a hardship, without substantial detriment to nearby properties. Accordingly, those variance standards set forth in Sect. 18-404, Required Standards for Variances, must now be amended in order to bring them into parity with the revised Virginia Code §15.2-2309, as well the reference to variances found in Sect. 19-209, Powers and Duties, which sets forth the power and duties of the BZA. Currently, the BZA references the provisions of Virginia Code §15.2-2309 when evaluating and making decisions on variance applications. Once this amendment is adopted to reflect the changes of HB 1849, the BZA may directly reference the Zoning Ordinance instead of the Virginia Code.

Definitions of Public Use and School of General Education

This amendment is also listed as a Priority 1 item in the 2016 Zoning Ordinance Amendment Work Program. The purpose of this amendment is to clarify that a use controlled or sponsored by another local government, such as a school or library, is not deemed a public use for purposes of zoning. Article 20 of the Zoning Ordinance defines a public use as:

“Any area, building or structure held, used or controlled exclusively for public purposes by any department or branch of the Federal Government, Commonwealth of Virginia, or the Fairfax County government under the direct authority of the Board of Supervisors, the Fairfax County School Board or Fairfax County Park Authority, without reference to the ownership of the building or structures or the realty upon which it is situated. For the purpose of this Ordinance, uses sponsored by the agencies such as the Fairfax County Water Authority, Social Services Board, Redevelopment and Housing Authority, Economic Development Authority, Juvenile Court and Fairfax-Falls Church Community Services Board shall not be deemed public uses and shall be subject to the applicable Zoning Ordinance provisions for the proposed use; provided, however, if such uses are implemented under the direct authority of the Fairfax County Board of Supervisors, they shall be deemed public uses”

Public uses are permitted uses in all zoning districts. In the past, under the interpretation of a previous Zoning Administrator, a public school operated by another local jurisdiction and located within the County has been treated as most similar to a public use. While the circumstances where this situation has occurred is limited, staff believes that it is appropriate to amend the definition of public use to clarify that uses controlled or sponsored by another county, city or town shall not be deemed a public use, as they are not operated under the authority of the Board of Supervisors, but shall instead be subject to the applicable zoning regulations for the proposed use. Therefore, staff is proposing language that adds uses operated by another county, city or town to the list of quasi-public entities that are not treated as public uses for purposes of zoning. In addition, the definition

of a school of general education is also proposed for amendment, to reflect that such use includes a public school operated by another jurisdiction.

CONCLUSION

Staff recommends approval of the proposed amendment with an effective date of 12:01 a.m. on the day following adoption. The additional certified plat and dimensioned floor plan submission requirements for Home Child Care Facilities, Home Professional Offices and Accessory Dwelling Units shall only be required for those applications submitted after the effective date of this Ordinance.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of July 26, 2016, and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, as other amendments may be adopted prior to action on this amendment. In the case of such an event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

Amend Article 4, Commercial District Regulations, as follows:

- **Amend Part 1, C-1 Low Rise Office Transitional District, Sect. 4-102, Permitted Uses, by revising Par. 5 to read as follows:**

5. Nursery schools and child care centers, limited by the provisions of Sect. 105 below.

- **Amend Part 2, C-2 Limited Office District, Sect. 4-202, Permitted Uses, by revising Par. 5 to read as follows:**

5. Nursery schools and child care centers, limited by the provisions of Sect. 205 below.

- **Amend Part 3, C-3 Office District, Sect. 4-302, Permitted Uses, by revising Par. 11 to read as follows:**

11. Nursery schools and child care centers, limited by the provisions of Sect. 305 below.

- **Amend Part 4, C-4 High Intensity Office District, Sect. 4-402, Permitted Uses, by revising Par. 12 to read as follows:**

12. Nursery schools and child care centers, limited by the provisions of Sect. 405 below.

- **Amend Part 5, C-5 Neighborhood Retail Commercial District, Sect. 4-502, Permitted Uses, by revising Par. 29 to read as follows:**

29. Veterinary hospitals, limited by the provisions of Sect. 505 below.

- **Amend Part 6, C-6 Community Retail Commercial District, Sect. 4-602, Permitted Uses, by revising Par. 35 to read as follows:**

35. Veterinary hospitals, limited by the provisions of Sect. 605 below.

- **Amend Part 7, C-7 Regional Retail Commercial District, Sect. 4-702, Permitted Uses, by revising Par. 41 to read as follows:**

41. Veterinary hospitals, limited by the provisions of Sect. 705 below.

- **Amend Part 8, C-8 Highway Commercial District, Sect. 4-802, Permitted Uses, by revising Par. 42 to read as follows:**

42. Veterinary hospitals, limited by the provisions of Sect. 805 below.

- **Amend Part 9, C-9 Super-Regional Retail Commercial District, Sect. 4-902, Permitted Uses, by revising Par. 29 to read as follows:**

29. Veterinary hospitals, limited by the provisions of Sect. 905 below.

Amend Article 8, Special Permits, as follows:

- **Amend Part 0, General Provisions, Sect. 8-011, Submission Requirements, Par. 1 and 7, to read as follows:**

8-011 Submission Requirements

1. ~~Four (4) copies of an~~ One (1) original application on forms provided by the County, completed and signed by the applicant.
7. A notarized statement which confirms the ownership of the subject property, and the nature of the applicant's interest in the same. If the applicant is not the owner of the property involved in the application, evidence must be submitted showing that the applicant will have the right to use the property as proposed. For a condominium, the provisions of Sect. 2-518 shall be applicable.

- **Amend Part 3, Group 3 Institutional Uses, Sect. 8-305, Additional Standards for Home Child Care Facilities, by revising Par. 4, adding a new Par. 5, and renumbering the existing Par. 5, all to read as follows:**

8-305 Additional Standards for Home Child Care Facilities

4. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ~~ten (10) fifteen (15)~~ fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and, in addition to the 15 copies, one 8 1/2" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information: plan drawn to scale. The plan, which may be prepared by the applicant, shall contain the following information:

- A. The dimensions, boundary lines and area of the lot or parcel.
- B. The location, dimensions and height of any building, structure or addition, whether existing or proposed.
- C. The distance from all property lines to the existing or proposed building, structure or addition, shown to the nearest foot.
- D. The dimensions and size of all outdoor recreation space and the location of such space in relation to all lot lines.
- E. Seal and signature of the licensed professional certifying the plat.

5. All applications shall be accompanied by a dimensioned floor plan, certified by an engineer, architect or other similar professional licensed by the State of Virginia, identifying all rooms and/or facilities to be used in conjunction with the home child care facility, including gross floor area, and points of ingress and egress from the dwelling. In addition, and notwithstanding Par. 4 of Sect. 011 above, the dimensioned floor plan shall also be accompanied by corresponding digital photographs of those rooms and/or facilities used in conjunctions with the home child care facility. The photographs shall be clearly dated and labeled as to their subject matter. However, upon receipt of a written request with justification, the Zoning Administrator may accept a dimensioned floor plan that is not certified or sealed by a licensed professional if it can be demonstrated that the submitted floor plan adequately and accurately depicts the proposed interior conditions of the dwelling unit.

56. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.

- **Amend Part 9, Group 9 Uses Requiring Special Regulation, Sect. 8-907, Additional Standards for Home Professional Offices, by replacing existing Par. 5 with the following:**

8-907 Additional Standards for Home Professional Offices

- ~~5. Notwithstanding the provisions of Sect. 014 above, home professional offices approved prior to January 24, 1977 may be renewed for one five (5) year period under the ordinances in effect at the time the permit was originally granted, provided that the principal user is the same as the one who originally received the special permit. Thereafter, any renewal shall be subject to the provisions of this Ordinance.~~

All applications shall be accompanied by a dimensioned floor plan, certified by an engineer, architect or other similar professional licensed by the State of Virginia, depicting the internal layout of the residence, including identification and corresponding gross floor area of all rooms and/or facilities to be used in conjunction

with the home professional office, and ingress and egress from the dwelling. In addition, and notwithstanding Par. 4 of Sect. 011 above, the dimensioned floor plan shall also be accompanied by corresponding digital photographs of those rooms and/or facilities used in conjunctions with the home professional office. The photographs shall be clearly dated and labeled as to their subject matter. However, upon receipt of a written request with justification, the Zoning Administrator may accept a dimensioned floor plan that is not certified or sealed by a licensed professional if it can be demonstrated that the submitted floor plan adequately and accurately depicts the proposed interior conditions of the dwelling unit.

- Amend Part 9, Group 9 Uses Requiring Special Regulation, Sect. 8-918, Additional Standards for Accessory Dwelling Units, by revising Par. 2, replacing Par. 13 and adding a new Par. 14, as follows:

8-918 Additional Standards for Accessory Dwelling Units

2. Except on lots two (2) acres or larger, an accessory dwelling unit shall be located within the structure of a single family detached dwelling unit. Any ~~added~~ external entrances for the accessory dwelling unit shall be located on the side or rear of the structure, unless an alternative location is approved by the BZA.

On lots two (2) acres or greater in area, an accessory dwelling unit may be located within the structure of a single family detached dwelling unit or within a freestanding accessory structure.

13. ~~Notwithstanding Par. 5 of Sect. 9-012, any accessory dwelling unit approved prior to July 27, 1987 and currently valid may be extended in accordance with the provisions of this Section and Sect. 012 above.~~

Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and, in addition to the 15 copies, one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:

- A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.
- B. Total area of the property and of each zoning district in square feet or acres.
- C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.

- D. The location, dimension and height of any building or structure, to include existing or proposed fences and/or walls and, if known, the construction date(s) of all existing structures.
 - E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing and/or proposed structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. The location of a well and/or septic field, or indication that the property is served by public water and/or sewer.
 - H. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
 - I. Seal and signature of the licensed professional person certifying the plat.
14. All applications shall be accompanied by a dimensioned floor plan, certified by an engineer, architect or other similar professional licensed by the State of Virginia, depicting the internal layout and gross floor area of both the principal and accessory dwelling unit, with the use of each room and points of ingress and egress to the dwellings clearly labeled. The gross floor area calculation shall include the limitation set forth in Par. 3 above. In addition, and notwithstanding Par. 4 of Sect. 011 above, the dimensioned floor plan shall also be accompanied by corresponding digital photographs, which shall be clearly dated and labeled as to their subject matter. However, upon receipt of a written request with justification, the Zoning Administrator may accept a dimensioned floor plan that is not certified or sealed by a licensed professional if it can be demonstrated that the submitted floor plan adequately and accurately depicts the proposed interior conditions of the dwelling unit.

Amend Article 18, Administration, Amendments, Violations and Penalties, Part 4, Variances, Sect. 18-404, Required Standards for Variances, to read as follows:

In furtherance of the requirements of §15.2-2309 of the Code of Virginia, To grant a variance, the BZA shall make specific findings based on the evidence before it that the application satisfies all of the following enumerated requirements:

1. That the property interest in the subject property for which the variance is being requested was acquired in good faith, and the applicant did not create any hardship for which relief is sought.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;

- ~~B. Exceptional shallowness at the time of the effective date of the Ordinance;~~
- ~~C. Exceptional size at the time of the effective date of the Ordinance;~~
- ~~D. Exceptional shape at the time of the effective date of the Ordinance;~~
- ~~E. Exceptional topographic conditions;~~
- ~~F. An extraordinary situation or condition of the subject property; or~~
- ~~G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.~~

~~32.~~ That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

~~43.~~ That the strict application of this Ordinance would ~~produce undue hardship~~ unreasonably restrict the utilization of the subject property, or the granting of the variance would alleviate a hardship due to a physical condition relating to the subject property or improvements thereon at the time of the effective date of the Ordinance.

~~54.~~ That such ~~undue~~ unreasonable restriction or hardship is not shared generally by other properties in the same zoning district and the same vicinity.

~~6. That:~~

~~A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict the utilization of the subject property, or~~

~~B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.~~

~~75.~~ That ~~authorization~~ the granting of the variance will not be of substantial detriment to adjacent property.

~~8. That the character of the zoning district will not be changed by the granting of the variance.~~

~~96.~~ That the variance will be in harmony with the ~~intended spirit and~~ purposes of this Ordinance and will not be contrary to the public interest.

Amend Article 19, Boards, Commissions, Committees, Part 2, Board of Zoning Appeals, Sect. 19-209, Powers and Duties, by revising Par. 2 to read as follows:

- 2. To authorize upon application in specific cases such variance from the terms of this

Ordinance as will not be contrary to the public interest, when owning to special conditions, a literal enforcement of the provisions will ~~result in unnecessary hardship~~ unreasonably restrict the utilization of the subject property; provided that the ~~spirit~~ purpose of the Ordinance shall be observed ~~and substantial justice done~~, all as provided in Part 4 of Article 18.

Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, 20-300, Definitions, by revising the following definitions to read as follows:

PUBLIC USE: Any area, building or structure held, used or controlled exclusively for public purposes by any department or branch of the Federal Government, Commonwealth of Virginia, or the Fairfax County government under the direct authority of the Board of Supervisors, the Fairfax County School Board or Fairfax County Park Authority, without reference to the ownership of the building or structures or the realty upon which it is situated. For the purpose of this Ordinance, uses sponsored or operated by other counties, cities or towns within the Commonwealth of Virginia or agencies such as the Fairfax County Water Authority, Social Services Board, Redevelopment and Housing Authority, Economic Development Authority, Juvenile Court and Fairfax-Falls Church Community Services Board shall not be deemed public uses and shall be subject to the applicable Zoning Ordinance provisions for the proposed use; provided, however, if such uses are implemented under the direct authority of the Fairfax County Board of Supervisors, they shall be deemed public uses.

SCHOOL OF GENERAL EDUCATION: Any parochial; or private school, boarding school, or academy, ~~or~~ including a school for the mentally intellectually or physically disabled, giving that provides regular instruction at least five (5) days a week, except holidays, for a normal school year of not less than seven (7) months, but not including (a) a school of special education as defined herein; or (b) a child care center or home child care facility unless conducted as part of a school of general education; or (c) a riding school, however designated. For purposes of this Ordinance, a school of general education shall include a public school operated by other counties, cities or towns within the Commonwealth of Virginia.

ZONING ORDINANCE AMENDMENT – REFERENCE CITATIONS FOR NURSERY SCHOOLS, CHILD CARE CENTERS, & VETERINARY HOSPITALS; SPECIAL PERMIT SUBMISSION REQUIREMENTS; VARIANCE STANDARDS; AND CLARIFICATION OF THE DEFINITION OF PUBLIC USE (Countywide)

Decision Only During Commission Matters
(Public Hearing held on September 22, 2016)

Commissioner Hart: Thank you, Mr. Chairman. I also have a decision only. We had a public hearing on September 22nd, on a proposed Zoning Ordinance Amendment with many different subjects and I – I think the – the issue that took the most time at the – at the public hearing was the potential expense to the applicant in a home child care case of doing both a certified plat and a certified floor plan. And I think what we’ve tried to do is to balance the expense to the applicant against the need for accurate and complete information. And – and one of the things that has made some of the child care cases more complicated is the absence of a certified plat with current and accurate information. Following the public hearing and – and in consultation with staff, what I’m going to suggest, which is reflected in the handout that you should have received both in hard copy and by email before tonight, is that we retain the staff recommendation about the certified plat but that we delete the references to the floor plan being certified. Although, we would keep the requirement for the information being provided. And I would couple that with a follow-on motion that we’ll continue to look at that for the next couple of years and if it turns out we – we still decide we are going to need the floor plans we’ll come back to that. But I – I think an incremental approach to this may be appropriate and we do want to promote child care. I don’t think we can continue to do it without the certified plats and this is, I think, a reasonable resolution of the concerns expressed at the public hearing. And on the other issues, I think we’re – we’re already at a consensus. Therefore, Mr. Chairman, I FIRST MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF THE PROPOSED ZONING ORDINANCE AMENDMENT REGARDING REFERENCE CITATIONS FOR NURSERY SCHOOLS, CHILD CARE CENTERS AND VETERINARY HOSPITALS; SPECIAL PERMIT SUBMISSION REQUIREMENTS; VARIANCE STANDARDS; AND DEFINITIONS OF PUBLIC USE AND SCHOOL OF GENERAL EDUCATION, SUBJECT TO THE FOLLOWING CHANGES, AS DISTRIBUTED BY STAFF TONIGHT AND DATED OCTOBER 5, 2016:

- FIRST, THAT PARAGRAPH 5, OF SECTION 8-305; PARAGRAPH 5, OF SECTION 8-907; AND PARAGRAPH 14 OF SECTION 8-918, BE AMENDED BY STRIKING THE PROPOSED LANGUAGE THAT THE DIMENSIONED FLOOR PLAN SHALL BE CERTIFIED BY AN ENGINEER, ARCHITECT, OR SIMILAR LICENSED PROFESSIONAL;
- AND SECOND, IN THOSE SAME PARAGRAPHS, DELETING THE LAST SENTENCE CONTAINING THE WAIVER PROVISIONS FOR THE CERTIFIED DIMENSIONED FLOOR PLAN, AS THIS IS NO LONGER NECESSARY GIVEN THE PROPOSED CHANGES.

Z.O. AMENDMENT – REFERENCE CITATIONS FOR NURSERY
SCHOOLS, CHILD CARE CENTERS, & VETERINARY HOSPITALS;
SPECIAL PERMIT SUBMISSION REQUIREMENTS; VARIANCE
STANDARDS; AND CLARIFICATION OF THE DEFINITION OF PUBLIC USE

Vice Chairman de la Fe: Second. I – I'll second it.

Commissioner Ulfelder: Mr. Chair?

Vice Chairman de la Fe: Yes?

Commissioner Ulfelder: I – I was not present for the public hearing but I have reviewed the recording of the public hearing as well as all the materials in connection with it, so I plan on voting on this tonight and support the motion. I also want to point out that it includes a provision as involving the definition of public use and schools of general education in the Ordinance. You will recall, we had a recent case involving a public school that is not a Fairfax County Public School but that is operated by one of our adjacent jurisdictions that came to us under the 2232 provisions because of the then longstanding Zoning Administrator's interpretation that it best fit under the term of "public facility." This – this amendment or these two changes within the – this series of amendments will clarify that. We've also, as was stated by staff at the public hearing and I think later confirmed by the County Attorney's Office, this is entirely prospective and will not in any way effect the – the application and the decision that we made several weeks ago involving the Falls Church City Public School in – that's located in Fairfax County.

Vice Chairman de la Fe: Okay, thank you. Any further discussion?

Commissioner Hart: Mr. Chair?

Vice Chairman de la Fe: Yes, Mr. Hart?

Commissioner Hart: Before we vote, I – I think I neglected to say at the end of the motion WITH THE FURTHER RECOMMENDATION THAT THE AMENDMENT TAKE EFFECT AT 12:01 A.M. ON THE DATE FOLLOWING ADOPTION BY THE BOARD OF SUPERVISORS. Mr. Hushour, is that – that's exactly?

Andrew Hushour, Zoning Administration Division, Department of Planning and Zoning: That is correct, yeah.

Commissioner Hart: Okay, thank you.

Vice Chairman de la Fe: Okay, without having seconded I – having seconded I will accept that clarification. Any further discussion? Hearing and seeing none, all those in favor please signify by saying aye.

Commissioners: Aye.

Planning Commission Meeting
October 5, 2016

Page 3

Z.O. AMENDMENT – REFERENCE CITATIONS FOR NURSERY
SCHOOLS, CHILD CARE CENTERS, & VETERINARY HOSPITALS;
SPECIAL PERMIT SUBMISSION REQUIREMENTS; VARIANCE
STANDARDS; AND CLARIFICATION OF THE DEFINITION OF PUBLIC USE

Vice Chairman de la Fe: Opposed? The motion carries. Thank you very much.

Commissioner Hart: Mr. Chairman?

Vice Chairman de la Fe: Yes, Mr. Hart.

Commissioner Hart: Yeah, secondly, that – I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT STAFF BE DIRECTED TO REEVALUATE THE SUBMISSION OF UNCERTIFIED DIMENSIONED FLOOR PLANS TWO YEARS FOLLOWING THE ADOPTION OF THE AMENDMENT AND REPORT BACK THEIR FINDINGS IF APPROPRIATE. The purpose of the evaluation is to determine whether the adopted special permit application submission requirements are working as intended, and special exception too in those categories, or whether further Zoning Ordinance changes are necessary.

Commissioner Ulfelder: Second.

Vice Chairman de la Fe: Seconded by Mr. Ulfelder. Any discussion? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioner: Aye.

Vice Chairman de la Fe: Opposed? The motion carries. Thank you very much.

//

(The motion carried by a vote of 7-0. Commissioners Flanagan, Hedetniemi, Lawrence, Murphy and Sargeant were absent from the meeting.)

TMW

Board Agenda Item
October 18, 2016

4:30 p.m.

Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Birch Street Sidewalk Improvements (Dranesville District)

ISSUE:

Public Hearing on the acquisition of certain land rights necessary for the construction of Project ST-000003, Pedestrian Task Force Recommendations, in Fund 40010, County and Regional Transportation Projects.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) adopt the attached resolution authorizing the acquisition of the necessary land rights.

TIMING:

On September 20, 2016, the Board authorized advertisement of a public hearing to be held on October 18, 2016, at 4:30 p.m.

BACKGROUND:

This project consists of sidewalk improvements and storm drainage upgrades along Birch Street and Grove Avenue. Improvements include the installation of approximately 500 linear feet of 5' wide concrete sidewalk, curb and gutter, pedestrian curb ramps, utility relocation, minor grading, and driveway reconstruction along Birch Street from the Falls Church City limit to Grove Avenue. Storm drainage improvements along Birch Street include drainage pipe and inlet installation. The storm drainage system will be extended from Birch Street, south along Grove Avenue, to connect to the existing storm drainage system.

Land rights for these improvements are required on seven (7) properties, five (5) of which have been acquired by the Land Acquisition Division (LAD). The construction of the project requires the acquisition of Deeds of Dedication, a Sidewalk Easement, a Storm Drainage Easement, and Grading Agreement and Temporary Construction Easements.

Negotiations are in progress with several owners of these properties; however, because resolution of these acquisitions is not imminent, it may become necessary for the Board

Board Agenda Item
October 18, 2016

to utilize quick-take eminent domain powers to commence construction of this project
Board Agenda Item
October 18, 2016

on schedule. These powers are conferred upon the Board by statute, namely, Va. Code Ann. Sections 15.2-1903 through 15.2-1905 (as amended). Pursuant to these provisions, a public hearing is required before property interests can be acquired in such an accelerated manner.

FISCAL IMPACT:

Funding is available for the Birch Street Sidewalk in ST-000003, Pedestrian Task Force Recommendations, Fund 40010, County and Regional Transportation Projects. This project is included in the FY 2017 – FY 2021 Adopted Capital Improvement Program (with Future Fiscal Years to FY 2026). No additional funding is being requested from the Board, and there is no General Fund Impact.

CREATION OF NEW POSITIONS:

There are no new positions associated with acquiring these land rights.

ENCLOSED DOCUMENTS:

Attachment A – Project Location Map

Attachment B – Resolution with Fact Sheets on the affected parcels with plats showing interests to be acquired (Attachments 1 through 2A).

STAFF:

James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)

Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities



BIRCH STREET SIDEWALK IMPROVEMENTS

Project ST-000003-048

Tax Map: 40-4

Dranesville District

Scale: Not to Scale

Affected Properties:



Proposed Improvements:



ATTACHMENT B

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, October 18, 2016, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, certain Project ST-000003-048, Birch Street Sidewalk Improvements had been approved; and

WHEREAS, a public hearing pursuant to advertisement of notice was held on this matter, as required by law; and

WHEREAS, the property interests that are necessary have been identified; and

WHEREAS, in order to keep this project on schedule, it is necessary that the required property interests be acquired not later than October 21, 2016.

NOW THEREFORE BE IT RESOLVED, that the Director, Land Acquisition Division, in cooperation with the County Attorney, is directed to acquire the property interests listed in Attachments 1 through 2A by gift, purchase, exchange, or eminent domain; and be it further

RESOLVED, that following the public hearing, this Board hereby declares it necessary to acquire the said property and property interests and that this Board intends to enter and take the said property interests for the purpose of constructing sidewalk improvements as well curb and gutter to provide adequate storm drainage as shown and described in the plans of Project ST-000003-048, Birch Street Sidewalk Improvements on file in the Land Acquisition Division of the Department of Public

Works and Environmental Services, 12000 Government Center Parkway, Suite 449, Fairfax, Virginia; and be it further

RESOLVED, that this Board does hereby exercise those powers granted to it by the Code of Virginia and does hereby authorize and direct the Director, Land Acquisition Division, on or before October 21, 2016, unless the required interests are sooner acquired, to execute and cause to be recorded and indexed among the land records of this County, on behalf of this Board, the appropriate certificates in accordance with the requirements of the Code of Virginia as to the property owners, the indicated estimate of fair market value of the property and property interests and/or damages, if any, to the residue of the affected parcels relating to the certificates; and be it further

RESOLVED, that the County Attorney is hereby directed to institute the necessary legal proceedings to acquire indefeasible title to the property and property interests identified in the said certificates by condemnation proceedings, if necessary.

LISTING OF AFFECTED PROPERTIES
Project ST-000003-048 – Birch Street Sidewalk Improvements
(Dranesville District)

PROPERTY OWNER(S)

TAX MAP NUMBER

1. Whitney A. Stuart and
Thomas M. Herd

040-4-19-I-0007-A

Street Address:
6952 Birch Street
Falls Church, VA 22046

2. Robert F. Sheahan and
Linda E. Donath-Sheahan

040-4-19-I-0013-A

Street Address:
6942 Birch Street
Falls Church, VA 22046

A Copy – Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors

ATTACHMENT 1

AFFECTED PROPERTY

Tax Map Number: 040-4-19-I-0007-A
Street Address: 6952 Birch Street
Falls Church, VA 22046

OWNER(S): Whitney A. Stuart and
Thomas M. Herd

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Deed of Dedication - 198 sq. ft.
Grading Agreement and Temporary Construction Easement - 1,142 sq. ft.

VALUE

Estimated value of interests and damages:

TWENTY THOUSAND SEVEN HUNDRED DOLLARS (\$20,700.00)

ATTACHMENT 2

AFFECTED PROPERTY

Tax Map Number: 040-4-19-I-0013-A
Street Address: 6942 Birch Street
Falls Church, VA 22046

OWNER(S): Robert F. Sheahan and
Linda E. Donath-Sheahan

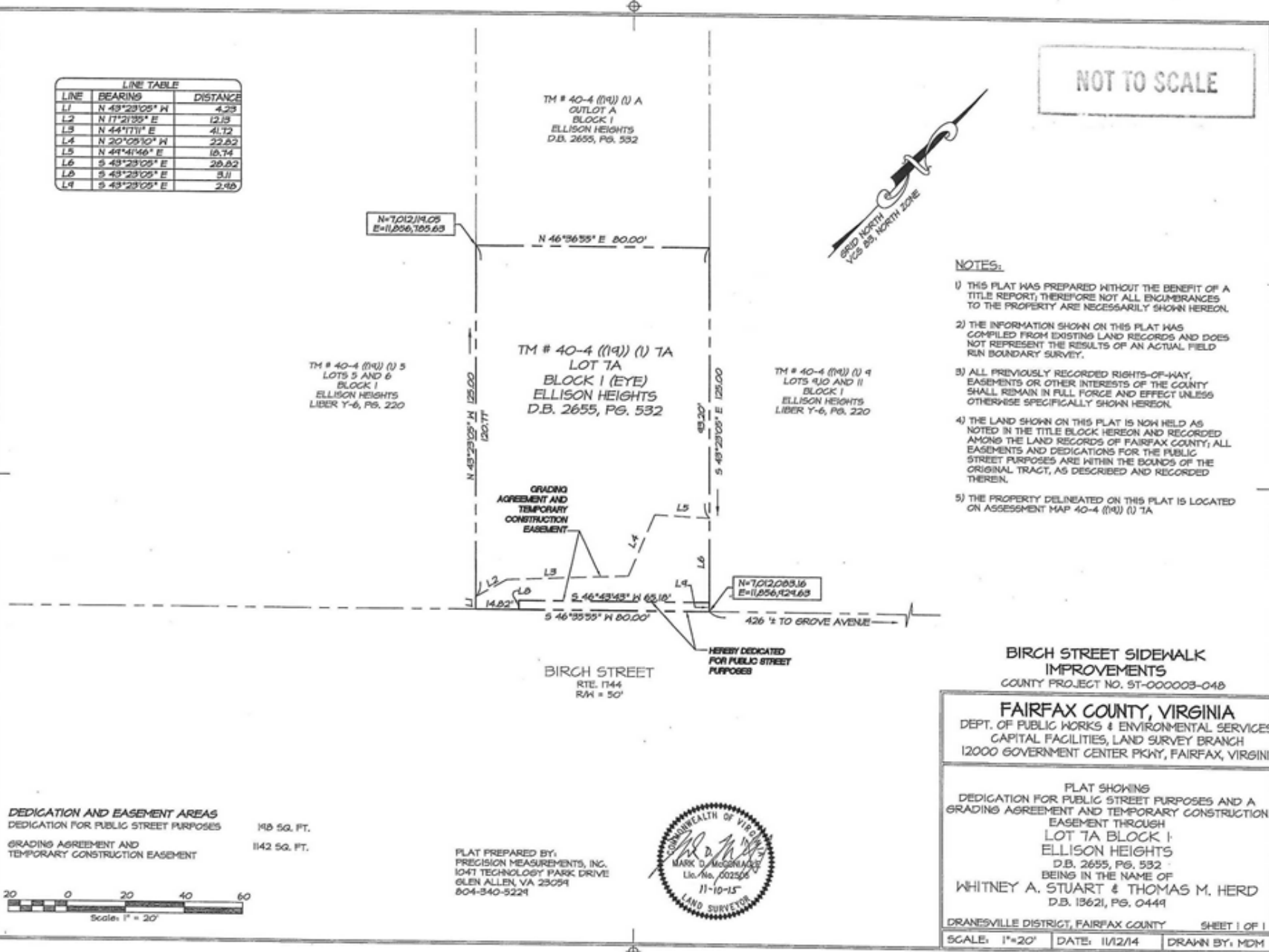
INTEREST(S) REQUIRED: (As shown on attached plat/plan)

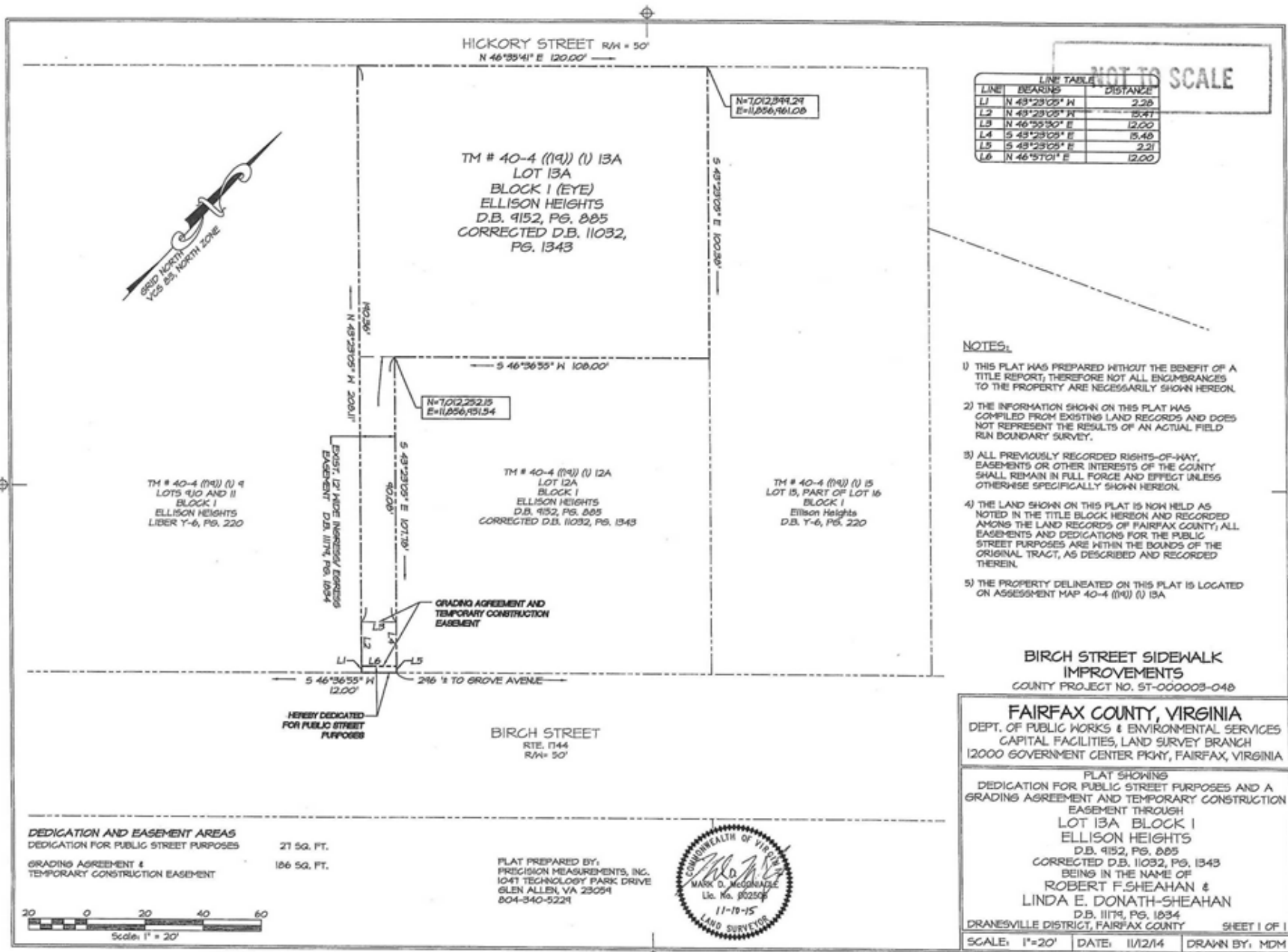
Deed of Dedication - 27 sq. ft.
Grading Agreement and Temporary Construction Easement - 186 sq. ft.

VALUE

Estimated value of interests and damages:

ONE THOUSAND TWO HUNDRED DOLLARS (\$1,200.00)





Board Agenda Item
October 18, 2016

5:00 p.m.

Public Hearing to Expand the Twinbrook Community Parking District (Braddock District)

ISSUE:

Public hearing to consider a proposed amendment to Appendix M, of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to expand the Twinbrook Community Parking District (CPD).

RECOMMENDATION:

The County Executive recommends that the Board adopt the amendment to the Fairfax County Code shown in Attachment I to expand the Twinbrook CPD.

TIMING:

On September 20, 2016, the Board authorized advertisement of a Public Hearing to consider the proposed amendment to Appendix M, of the *Fairfax County Code* to take place on October 18, 2016, at 5:00 p.m.

BACKGROUND:

Fairfax County Code Section 82-5B-2 authorizes the Board to expand a CPD for the purpose of prohibiting or restricting the parking of watercraft; boat trailers; motor homes; camping trailers; and any other trailer or semi-trailer, regardless of whether such trailer or semi-trailer is attached to another vehicle; any vehicle with three or more axles; any vehicle that has a gross vehicle weight rating of 12,000 or more pounds except school buses used on a current and regular basis to transport students; any vehicle designed to transport 16 or more passengers including the driver, except school buses used on a current and regular basis to transport students; and any vehicle of any size that is being used in the transportation of hazardous materials as defined in Virginia Code § 46.2-341.4 on the streets in the CPD.

No such CPD shall apply to (i) any commercial vehicle when discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location, (ii) utility generators located on trailers and being used to power network facilities during a loss of commercial power, (iii) restricted vehicles temporarily parked on a public street within any such CPD for a maximum of 48 hours for the purpose of loading, unloading, or preparing for a trip, or (iv) restricted vehicles that are temporarily parked on a public street within any such CPD for use by federal, state, or local public

Board Agenda Item
October 18, 2016

agencies to provide services.

Pursuant to Fairfax County Code Section 82-5B-3, the Board may expand a CPD if: (1) the Board receives a petition requesting expansion and such petition contains the names, addresses, and signatures of petitioners who represent at least 60 percent of the addresses within the proposed CPD, and represent more than 50 percent of the eligible addresses on each block of the proposed CPD, (2) the proposed CPD includes an area in which 75 percent of each block within the proposed CPD is zoned, planned, or developed as a residential area, (3) the Board receives an application fee of \$10 for each petitioning property address in the proposed CPD, and (4) the proposed CPD must contain the lesser of (i) a minimum of five block faces or (ii) any number of blocks that front a minimum of 2,000 linear feet of street as measured by the centerline of each street within the CPD.

Staff has verified that the requirements for an expansion of a petition-based CPD have been satisfied.

The parking prohibition identified above for the Twinbrook CPD is proposed to be in effect seven days per week, 24 hours per day.

FISCAL IMPACT:

The cost of sign installation is estimated at \$250 to be paid from Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:

Attachment I: Amendment to the *Fairfax County Code*, Appendix M (CPD Restrictions)

Attachment II: Area Map of Proposed Twinbrook CPD

STAFF:

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)

Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

Maria Turner, Sr. Transportation Planner, FCDOT

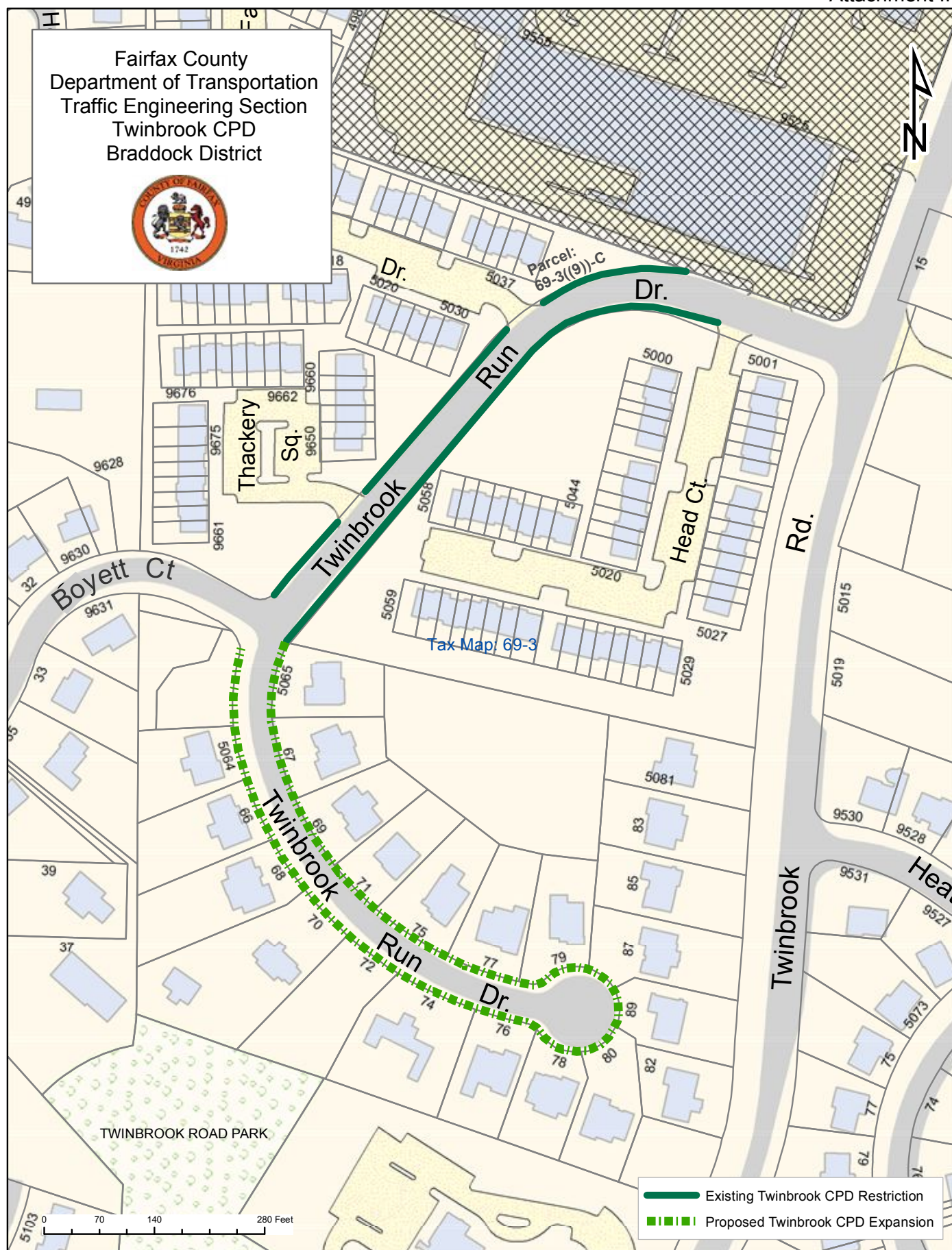
Charisse Padilla, Transportation Planner, FCDOT

PROPOSED CODE AMENDMENT

THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA
APPENDIX M

Amend *The Code of the County of Fairfax, Virginia*, by adding the following street to Appendix M-88, Section (a)(2), Twinbrook Community Parking District, in accordance with Article 5B of Chapter 82:

Twinbrook Run Drive (Route 5628)
From Boyett Court south to the cul-de-sac inclusive.



Board Agenda Item
October 18, 2016

5:00 p.m.

Public Hearing to Consider Adopting an Ordinance to Establish the McLean Ridge Temporary Residential Permit Parking District, District T5 (Providence District)

ISSUE:

Public Hearing to consider a proposed amendment to Appendix G, of *The Code of the County of Fairfax, Virginia*, to establish the McLean Ridge Temporary Residential Permit Parking District (RPPD), District T5.

RECOMMENDATION:

The County Executive recommends that the Board adopt an amendment (Attachment I) to Appendix G, of *The Code of the County of Fairfax, Virginia*, to establish the McLean Ridge Temporary RPPD, District T5.

TIMING:

On September 20, 2016, the Board authorized a Public Hearing to consider the proposed amendment to Appendix G, of *The Code of the County of Fairfax, Virginia*, to take place on October 18, 2016, at 5:00 p.m.

BACKGROUND:

Section 82-5A-4(e) of *The Code of the County of Fairfax, Virginia*, authorizes the Board to establish a temporary RPPD when a residential community is experiencing and/or expects to experience significant parking problems due to a short-term situation, such as a construction project. Short-term situations shall, at a minimum, be of at least six months duration. Any request for a temporary RPPD shall be in writing from all affected Community Associations that represent the affected residential area or, in cases where there are no Community Associations representing an area, a written request signed by residents of at least ten residences in the proposed area or 60 percent of the affected residents, whichever is less.

On June 7, 2016, the board president of McLean Ridge Homeowners Association submitted a finalized request to the Providence District Magisterial Office on behalf of its members to establish a temporary RPPD. The Commons, a multi-year redevelopment project to replace 13 existing low-rise residential structures with seven high-rise residential buildings and nine acres of parkland, is currently taking place along both sides of Anderson Road, between Chain Bridge Road and Colshire Drive in

Board Agenda Item
October 18, 2016

Tysons. Although the construction company has provided ample onsite parking for the construction employees, it has been reported that a number of employees continue to park in the surrounding neighborhoods and walk to the construction site.

At the time of public hearing, the completion date of The Commons redevelopment project is unknown as the construction will progress in phases. Phase one is expected to reach completion in September 2017.

Upon final completion of the redevelopment project, staff will notify the residents by mail of the termination of the temporary RPPD, and the signage will be removed. Staff has verified that all requirements for the establishment of a temporary RPPD have been met.

FISCAL IMPACT:

The cost of sign installation and subsequent removal is estimated at \$1,200 to be paid from Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:

Attachment I: Proposed Amendment to *The Code of the County of Fairfax, Virginia*
Attachment II: Map Depicting Proposed Limits of the Temporary RPPD

STAFF:

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT
Neil Freschman, Chief, Traffic Engineering Section, FCDOT
Maria Turner, Sr. Transportation Planner, FCDOT
Charisse Padilla, Transportation Planner, FCDOT

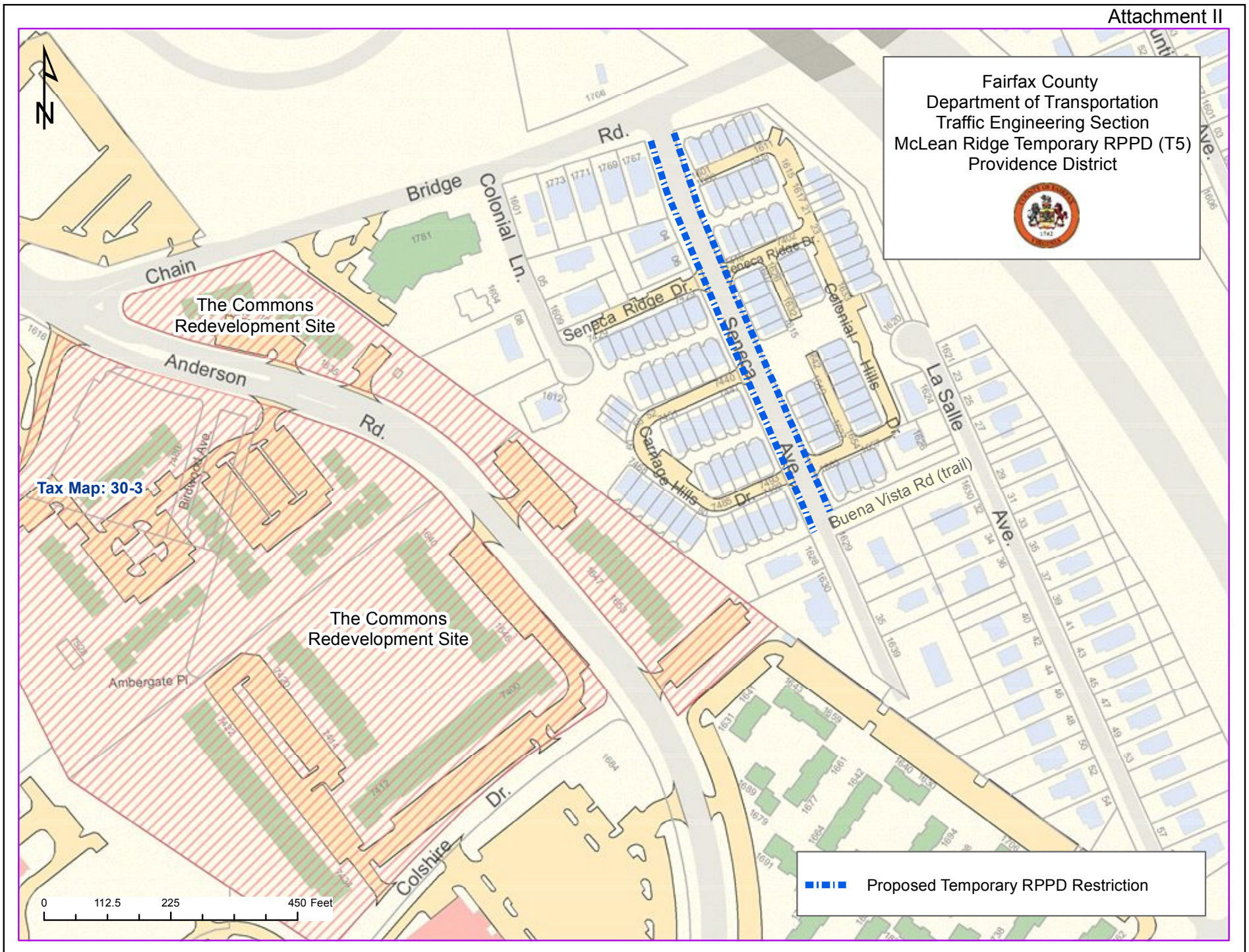
Appendix G

G-T5 McLean Ridge Temporary Residential Permit Parking District.

- (a) *Purpose and Intent.* The McLean Ridge Temporary Residential Permit Parking District is established to protect this residential area from unreasonable burdens in gaining access to their property during The Commons redevelopment project.
- (b) *District Designation.*
 - (1) The McLean Ridge Temporary Residential Permit Parking District is designated as Residential Permit Parking District T5, for the purposes of signing and vehicle decal identification.
 - (2) Blocks included in the McLean Ridge Temporary Residential Permit Parking District are shown on the Official Residential Permit Parking District map and are described below:

Seneca Avenue (Route 1549):
From Chain Bridge Road to Buena Vista Road (trail)
- (c) *District Provisions.*
 - (1) This District is established in accordance with and is subject to the provisions set forth in Article 5A of Chapter 82.
 - (2) Within the McLean Ridge Temporary Residential Permit Parking District, parking is prohibited from 9:00 a.m. to 3:00 p.m., Monday - Friday, except as permitted by the provisions of Article 5A of Chapter 82.
 - (3) All permits for the McLean Ridge Temporary Residential Permit Parking District shall expire on October 31, 2017. Thereafter, all permits may be renewed in accordance with Article 5A of Chapter 82 and the renewal procedures established by Fairfax County Department of Transportation.
- (d) *Signs.* Signs delineating McLean Ridge Temporary Residential Permit Parking District shall indicate the following:

NO PARKING
9:00 a.m. - 3:00 p.m.
Monday-Friday
Except by Permit
District T5



Board Agenda Item
October 18, 2016

5:00 p.m.

Public Hearing on Proposed Plan Amendment 2014-IV-MV3, Located East of Metroview Parkway, South of Cameron Run (Mount Vernon District)

ISSUE:

Plan Amendment (PA) 2014-IV-MV3 proposes to amend the Comprehensive Plan guidance for an approximately 6.3-acre area located in the Huntington Transit Station Area (TSA). The subject area is currently planned for office use up to 200,000 square feet (SF). The amendment considers adding an option for residential up to 360 multifamily dwelling units.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, September 15, 2016, the Planning Commission voted 10-0-0 (Commissioners Lawrence and Strandlie were absent from the meeting) to recommend to the Board of Supervisors the adoption of the Planning Commission alternative for PA 2014-IV-MV3, as shown on a handout dated September 15, 2016, which supports the staff recommendation with a minor modification regarding the maximum building height. Attachment I contains the Planning Commission Verbatim and Recommendation, and Attachment II contains the handout of the Planning Commission alternative, dated September 15, 2016.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation.

TIMING:

Planning Commission public hearing – September 15, 2016
Board of Supervisors' public hearing – October 18, 2016

BACKGROUND:

On December 2, 2014, the Board of Supervisors authorized PA 2013-IV-MV3 for Land Units C and D of the Huntington TSA for Tax Map parcels 83-1 ((1)) 42 and 49A. The authorization was expanded on March 25, 2015, to expand the subject area to include the portion of Tax Map Parcel 83-1((1))42 that is located in Land Unit G. The Board requested that staff consider residential development for the subject property in line with the community and county's vision for development near transit stations.

Board Agenda Item
October 18, 2016

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Planning Commission Handout, dated June 15, 2016.

The Staff Report for 2014-IV-MV3 has been previously furnished and is available online at: <http://www.fairfaxcounty.gov/dpz/comprehensiveplan/amendments/2014-iv-mv3.pdf>

STAFF:

Fred R. Selden, Director, Department of Planning and Zoning (DPZ)

Marianne R. Gardner, Director, Planning Division (PD), DPZ

Meghan D. Van Dam, Chief, Policy & Plan Development Branch (PPDB), PD, DPZ

Kenneth Sorenson, Planner II, PPDB, PD, DPZ

PA 2014-IV-MV3 – COMPREHENSIVE PLAN AMENDMENT (HUNTINGTON TRANSIT STATION AREA (TSA), LAND UNITS C, D AND G) (Mount Vernon District)

After Close of the Public Hearing

Chairman Murphy: Public hearing is closed. Mr. Flanagan.

Commissioner Flanagan: Thank you, Mr. Chairman. First, I'd like to be sure that the communications that have had from the Huntington community and their request, which the Board of Supervisors has to take into consideration, primarily, the opinions of the staff and that community. And so that's what – I have been following those instructions. And the original resolution of the homeowners association in July was recommending 40 feet for the height of the building on – abutting their properties and then they had a resolution that they – is adopted on page 3 of my handout that, once again, changed that to 40 to 50 feet – between 40 to 50 feet. So, consequently, my motion will be taking into consideration the latter position of the community. So thank – so with that having accepted as part of the record – my motion is, despite a rezoning in 1991 to permit an office building on tax map parcels 83-1 ((1)) 42 and 49A, they have, however, remained vacant. Plan Amendment 2014-IV-MV3 would support an alternative option for these parcels for residential development that is in line with the community and the County's vision for the development near transit stations, as per the Board's directive. Planning and Zoning staff, the Huntington Community Association, and the Mount Vernon Council of Citizens Association have met at various points to identify both the community and the County's vision for development within the Huntington Transit Station Area related to this subject property. The current proposal provides an opportunity for development in the area with access to natural amenities, transit proximity, and improved stormwater management for the Huntington neighborhood while preserving the integrity of adjacent residential neighborhoods which, by the way, happen to be conservation neighborhoods. Therefore, I believe the Planning Commission should recommend adding an option to Comprehensive Plan for a residential development up to a maximum of approximately 360 dwelling units on the subject property, as per the staff recommendation, with a minor modification that – about the maximum building height. I've included proposed language in the support of this Amendment below. And so, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS ADOPT A PLANNING COMMISSION ALTERNATIVE FOR PLAN AMENDMENT 2014-IV-MV3, AS FOUND ON PAGES 1 THROUGH 6 OF MY HANDOUT DATED SEPTEMBER 15, 2016.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion made by Mr. Flanagan to recommend to the Board of Supervisors to adopt PA 2014-IV-MV3 alternative, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

(The motion carried by a vote of 10-0. Commissioners Lawrence and Strandlie was absent from the meeting.)

JLC

**MOTION
PLANNING COMMISSION**

Planning Commissioner Earl Flanagan
Mount Vernon District

PLAN AMENDMENT 2014-IV-MV3

September 15, 2016

Motion:

Despite a rezoning in 1991 to permit an office building on the Tax Map Parcels 83-1 ((1)) 42 and 49A have remained vacant. Plan Amendment 20140IV-MV3 would support an alternative option for these parcels for residential development that is in line with the community and county's vision for development near transit stations, as per the Board's directive. Planning and Zoning staff, the Huntington Community Association, and the Mount Vernon Council of Citizens' Associations have met at various points to identify both the community and county's vision for development within the Huntington Transit Station Area related to this subject property. The current proposal provides an opportunity for development in the area with access to natural amenities, transit proximity, and improved storm water management for the Huntington neighborhood, while preserving the integrity of adjacent residential neighborhoods.

Therefore, I believe the Planning Commission should recommend adding an option to Comprehensive Plan for residential development up to a maximum of approximately 360 dwelling units on the subject property, as per the staff recommendation with a minor modification about the maximum building height. I have included proposed language in support of this amendment below.

Mr. Chairman, I move that the Planning Commission recommend that the Board of Supervisors adopt a Planning Commission alternative for Plan Amendment 2014-IV-MV3, as found on pages 1-6 of my handout dated September 15, 2016.

End of Motion

**PLANNING COMMISSION ALTERNATIVE
Plan Amendment 2014-IV-MV3**

Modifications to the Comprehensive Plan are shown as underlined for text to be added and as ~~strikethrough~~ as text to be deleted. Planning Commission modifications are indicated in double underline, strikethrough, and yellow highlight.

MODIFY: Fairfax County Comprehensive Plan, 2013 Edition, Area IV, Mount Vernon Planning District, amended through 10-20-2015; MV-1 Huntington Community Planning Sector, Transit Development Area Conditions and Recommendations, page 101:

“North of the Huntington Station Shopping Center is a block of older duplex houses that are directly across from the station facilities. Redevelopment in Jefferson Manor is not recommended outside of Land Unit L (see Figure 23) to limit the impact upon the Jefferson Manor neighborhood and nearby subdivisions. To the west of the WMATA property is the 19-acre Huntington Club Condominiums. Due to its location immediately adjacent to the Huntington Metrorail Station, this site presents an opportunity for redevelopment. West of the Huntington Club Condominiums, Fort Lyon Heights is a stable residential neighborhood which serves as a boundary to the Transit Development Area. On the north side of Huntington Avenue, across from the station, is an area of ~~largely~~ partially undeveloped land which is appropriate for Metro-related development. Land Units C, D and G are within a five minute walk of the station and are bounded by the Huntington community on the east, Cameron Run on the north, and an office building on the west.”

MODIFY: Fairfax County Comprehensive Plan, 2013 Edition, Area IV, Mount Vernon Planning District, amended through 10-20-2015; MV-1 Huntington Community Planning Sector, Transit Development Area Conditions and Recommendations, pages 103-107:

“The maximum level of development for the Transit Development Area is the following:

- ~~1,670,000~~ 1,470,000 gross square feet of office space;
 - Up to 120,000 square feet of office space may be converted to hotel use in Land Unit I;
- 105,000 gross square feet of retail space;
- ~~3,102~~ 3,462 dwelling units;
- 200-room hotel with conference facilities or an additional 250 dwelling units on Land Unit E; and
- In Land Unit L, an additional 50,000 to 85,000 gross square feet of retail and office space.”

MODIFY: Fairfax County Comprehensive Plan, 2013 Edition, Area IV, Mount Vernon Planning District, amended through 10-20-2015; MV-1 Huntington Community Planning Sector, Land Use Recommendations, Land Units C and D, pages 115-116:

“Land Units C and D

~~Land Unit C is located on the north side of Huntington Avenue across from the Metro station parking lot, there are approximately 14 acres which are currently being used for interim parking by Metro. Land Unit D is a four-acre strip that is planned for public facility use and serves as the right-of-way for the Metrorail guideway which passes over Huntington Avenue and Cameron Run. Any development on Land Units C and D should be coordinated and access to development on these lots should be designed to conform with General Development Criterion #9 since this site is these land units are located across the street from the Huntington Avenue entrance to the Metro station.~~

~~On these parcels, a maximum of 400,000 gross square feet of office space including a service retail component is recommended. This use will provide screening for the residences to the east from Metrorail's elevated tracks to the west, and would also serve as a transitional use from the industrial area on the west.~~

~~Any nonresidential development affecting Land Units C and D should satisfy all applicable general development criteria and address each of the following site-specific conditions:~~

- ~~• To reduce the visual impact of new development upon the surrounding community while providing a strong physical image for the Huntington Transit Station Area, it is recommended that development should taper in building heights as shown in Figure 25. A maximum height of 90 feet is recommended for the portion of the land units nearest the Metrorail guideway. Outside this area, building heights are recommended to taper down to 50 feet along the eastern edge of the site to be compatible with the existing residential development and to minimize the impact upon the adjacent neighborhood conservation area.~~
- ~~• Provide appropriate developer contributions for highway improvements and amenities which would offset the additional impacts generated by the development.~~
- ~~• Coordinate and integrate development to the greatest extent possible to address and provide adequate internal circulation, effective buffering as shown on Figure 26 for the adjacent neighborhood conservation area and mitigation of the environmental impacts associated with existing soils conditions and stormwater impacts on Cameron Run.~~
- ~~• Development affecting Land Units C and D should provide adequate measures to mitigate against undue environmental impact. The related floodplain and wetland areas should be protected in accordance with Plan objectives, as well as, other applicable guidelines and regulations, such as the Chesapeake Bay Act.~~
- ~~• This area possesses a high potential for significant archaeological and/or heritage resources. A field survey should precede any development and the preservation and recovery of significant archaeological and/or heritage resources should be incorporated into development plans.~~
- ~~• No vehicle access should be provided directly on Huntington Avenue. Access to the property from Huntington Avenue should be coordinated via Metroview Parkway that borders the western edge of the land unit.~~

~~The southern portion of Land Units C and D is planned for and developed with~~As an option, residential use up to a maximum of 450 dwelling units in a mix of townhouse units and high-rise multifamily units, is appropriate for the southern portion of Land Units C and D, provided that all the applicable general development criteria are met, except that in lieu of criterion #6, affordable housing should be provided in accordance with the county's Affordable Dwelling Unit Ordinance. In addition, residential~~This development was subject to~~should also satisfy the following site-specific conditions:

- In lieu of criterion #6, affordable housing should be provided in accordance with the county's Affordable Dwelling Unit Ordinance.
- In order to foster high quality development, any residential development proposed under this option should satisfy the criteria required to merit the high end of the density range as stated in Appendix 9 of the Land Use section of the Policy Plan.

- Taper building heights by placing the townhouse portion of the development with maximum heights of 40' on the eastern portion of the Land Unit and building heights up to a maximum height of 150 feet for the high-rise residential on the western portion of the land units nearest the Metrorail guideway to reduce the visual impact of new development upon the surrounding community while providing a strong physical image for the Huntington Transit Station Area.
- ~~Development should be coordinated and integrated~~ Coordinate and integrate development to the greatest extent possible to address and provide adequate internal circulation and effective buffering as shown on Figure 26, for the adjacent neighborhood conservation area.
- No vehicle access should be provided directly on Huntington Avenue. Access to the property from Huntington Avenue should be coordinated via Metroview Parkway that borders the western edge of the land unit.
- ~~Provide adequate~~ Adequate measures should be provided to mitigate undue environmental impacts. The related floodplain and wetland areas should be protected in accordance with Plan objectives, as well as other applicable guidelines and regulations such as the Chesapeake Bay Act.
- This area possesses a high potential for significant archaeological and/or heritage resources. A field survey should precede any development and the preservation and recovery of significant archaeological and/or heritage resources should be incorporated into development plans.

The northern portion of Land Units C and D is planned for a maximum of 200,000 gross square feet of office space including a service retail component. This use will provide screening for the residences to the east from Metrorail's elevated tracks to the west. Development should satisfy all applicable general development criteria and address each of the following site-specific conditions:

- To reduce the visual impact of new development upon the surrounding community while providing a strong physical image for the Huntington Transit Station Area, it is recommended that development should taper in building heights as shown in Figure 25. A maximum height of 90 feet is recommended for the portion of the land units nearest the Metrorail guideway. Outside this area, building heights are recommended to taper down to 50 feet along the eastern edge of the site to be compatible with the existing residential development and to minimize the impact upon the adjacent neighborhood conservation area.
- Provide appropriate developer contributions for highway improvements and amenities which would offset the additional impacts generated by the development.
- Development should be coordinated and integrated to the greatest extent possible to address and provide adequate internal circulation, effective buffering as shown on Figure 26 for the adjacent neighborhood conservation area and mitigation of the environmental impacts associated with existing soils conditions and stormwater impacts on Cameron Run.
- Development affecting Land Units C and D should provide adequate measures to mitigate adverse environmental impacts. Floodplain, wetland and other environmentally-sensitive areas should be considered within the context of Policy Plan

guidance regarding EOCs, as well as other applicable guidelines and requirements, such as the Chesapeake Bay Preservation Ordinance.

- Development affecting the subject property offers a unique opportunity to benefit from its adjacency to Cameron Run. Site design should seek to provide features that allow future residents to interact with the Cameron Run environment. Facilities, which could include nature observation points or interpretation features, should be sensitively designed to integrate with the delicate ecology of the site.
- This area possesses a high potential for significant archaeological and/or heritage resources. A field survey should precede any development and the preservation and recovery of significant archaeological and/or heritage resources should be incorporated into development plans.
- No vehicle access should be provided directly on Huntington Avenue. Access to the property from Huntington Avenue should be coordinated via Metroview Parkway that borders the western edge of the land unit.

As an option, residential use up to a maximum of approximately 360 dwelling units may be appropriate for the northern portion of Land Units C and D, provided that all the applicable general development criteria are met. In addition, residential development should also satisfy the following site-specific conditions:

- In order to foster high quality development, any residential development proposed under this option should satisfy the criteria required to merit the high end of the density range as stated in Appendix 9 of the Land Use section of the Policy Plan.
- To reduce the visual impact of new development upon the surrounding community while providing a strong physical image for the Huntington Transit Station Area, it is recommended that development should taper in building heights as shown in Figure 25. A maximum height of 150 feet is recommended for the portion of the land units nearest the Metrorail guideway. Outside this area, building heights are recommended to taper down to ~~50~~40 to 50 feet along the eastern edge of the site to be generally consistent with the existing residential development to the south, minimizing the impact upon the adjacent neighborhood conservation area to the east. Any proposed building height between 40 to 50 feet may be acceptable if it can be demonstrated through the rezoning process that a suitable transition to the neighborhood to the east can be achieved.
- Development should be coordinated and integrated to the greatest extent possible to address and provide adequate internal circulation and effective buffering as shown on Figure 26 for the adjacent neighborhood conservation area.
- No vehicle access should be provided directly on Huntington Avenue. Access to the property from Huntington Avenue should be coordinated via Metroview Parkway that borders the western edge of the land unit.
- Adequate measures should be provided to mitigate adverse environmental impacts. Floodplain, wetland and other environmentally-sensitive areas should be considered within the context of Policy Plan guidance regarding EOCs, as well as other applicable guidelines and requirements, such as the Chesapeake Bay Preservation Ordinance.
- Development affecting the subject property offers a unique opportunity to benefit from its adjacency to Cameron Run. Site design should seek to provide features that allow

future residents to interact with the Cameron Run environment. Facilities, which could include nature observation points or interpretation features, should be sensitively designed to integrate with the delicate ecology of the site.

- This area possesses a high potential for significant archaeological and/or heritage resources. A field survey should precede any development and the preservation and recovery of significant archaeological and/or heritage resources should be incorporated into development plans.”

MODIFY: Fairfax County Comprehensive Plan, 2013 Edition, Area IV, Mount Vernon Planning District, amended through 10-20-2015; MV-1 Huntington Community Planning Sector, Land Use Recommendations, Land Units G, H, H and K, page 119:

“Land Units G, H, J, and K (Telegraph Road/North Kings Highway/Huntington Avenue Area)

This area is comprised of land units that lie generally to the south and east of the intersection of Telegraph Road and North Kings Highway (Land Units G, H, I, J, and K). The major land uses in this area are highway-oriented retail uses and stable residential subdivisions.

Land Unit G is a triangle of land that is bounded by Huntington Avenue, Cameron Run and the Metrorail guideway. It is developed with office and industrial uses and, except as noted below, is planned for redevelopment to office use with an FAR up to .30 and a maximum height of 40 feet. This reflects the majority of current development in this land unit. The portion of Parcel 83-1 ((1)) 42 within this land unit is planned for office use with an option for residential use as noted in the recommendations for Land Units C and D. The uses on Parcel 45 are currently industrial uses. A significant portion of this lot may be acquired for right-of-way for planned roadway and interchange improvements to the Telegraph Road/North Kings Highway/Huntington Avenue intersections. If any publicly owned land remains after the interchange is built, it should be retained as public open space.”

...

COMPREHENSIVE LAND USE PLAN MAP:

The Comprehensive Land Use Plan Map will not change.

TRANSPORTATION PLAN MAP:

The Transportation Plan Map will not change.

Board Agenda Item
October 18, 2016

5:00 p.m.

Public Hearing on Proposed Plan Amendment 2015-IV-MV3, Located on the East Side of Richmond Highway, North of Fairview Drive (Mount Vernon District)

ISSUE:

Plan Amendment (PA) 2015-IV-MV3 proposes to amend the Comprehensive Plan guidance for an approximately 5.2-acre area located on Richmond Highway in the MV3-Belle Haven Community Planning Sector, partially within Land Unit G of the Penn Daw Community Business Center (CBC). The subject area is currently planned at the baseline for community-serving retail use at an intensity up to .50 floor area ratio (FAR) and residential use at a density of 3-4 dwelling units per acre, with an option for redevelopment through a concurrent Plan amendment and rezoning process. The amendment considers multifamily residential use to include up to 375 dwelling units and up to 7,500 square feet (SF) of retail use.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, September 22, 2016, the Planning Commission voted 8-0-1 (Commissioner Strandlie abstained from the vote and Commissioners Hedetniemi, Lawrence, and Ulfelder were absent from the meeting) to recommend to the Board of Supervisors the adoption of a Planning Commission alternative to the staff recommendation for Plan Amendment 2015-IV-MV3, as shown on page 2 through 4 of the handout dated September 22, 2016.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation to amend the Comprehensive Plan for multifamily residential use with a maximum of 375 dwelling units and ground-floor retail uses on the subject property. The Planning Commission recommendation supports the staff recommendation with minor modifications related to connectivity, parking and contributions to offset impacts of the proposed development, shown on a handout dated September 22, 2016. Attachment I contains the Planning Commission Verbatim and Recommendation, and Attachment II contains the Planning Commission handout, dated September 22, 2016.

Board Agenda Item
October 18, 2016

TIMING:

Planning Commission public hearing – September 15, 2016

Planning Commission decision – September 22, 2016

Board of Supervisors' public hearing – October 18, 2016

BACKGROUND:

On July 28, 2015, the Board of Supervisors authorized PA 2015-IV-MV3 for Tax Map parcels 83-3 ((1)) 18, 19 and 20, a portion of which is located within Land Unit G of the Penn Daw CBC. The Board of Supervisors directed staff to consider up to 375 dwelling units and/or live/work units with up to 7,500 SF of supporting retail uses for the subject area. A rezoning application (RZ/FDP 2016-MV-002), presently under review, proposes to rezone the subject property from the C-8 Highway Commercial District and R-4 Residential District to the PRM Planned Residential Mixed-Use District to allow construction of a multifamily building with a maximum of 340 dwelling units and first floor amenity space, served by structured parking.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Planning Commission Handout dated September 22, 2016

The Staff Report for PA 2015-IV-MV3 has been previously furnished and is available online at: <http://www.fairfaxcounty.gov/dpz/comprehensiveplan/planamendments/2015-iv-mv3.pdf>

STAFF:

Fred R. Selden, Director, Department of Planning and Zoning (DPZ)

Marianne R. Gardner, Director, Planning Division (PD), DPZ

Meghan Van Dam, Chief, Policy and Plan Development Branch, PD, DPZ

Aaron Klbaner, Planner II, Policy and Plan Development Branch, PD, DPZ

PA 2015-IV-MV3 – COMPREHENSIVE PLAN AMENDMENT (PENN DAW CBC, LAND
UNIT G (PT.) (Mount Vernon District)

Decision Only During Commission Matters
(Public Hearing held on September 15, 2016)

Commissioner Flanagan: Thank you, Mr. Chairman. At the public hearing for this Plan Amendment, two major issues arose concerning staff's recommendations regarding direct pedestrian and bicycle access to a planned transit station and the timing of the dedication of a public street connection between Fairview Drive and property to the north of the subject area. The size of the property does not appear to present challenges to achieving direct pedestrian and bicycle access at this time. Removing the word "direct" also would not preclude the ability of this type of connection to be made as part of the rezoning process. In fact, the transit station – the planned transit station location has not been fixed at this particular point, but will be maybe moved as a part of the Embark process. The two options for Plan language were presented at the public hearing to accommodate a suggested change from the property owner about the timing of right-of-way dedication that caused confusion. The staff recommendation about the right-of-way dedication does not involve the issue of timing and is more appropriate for discussion during the rezoning phrase (sic). Therefore, I support the staff recommended text regarding dedication, as shown on page 9 of the staff report dated September 1, 2016, which is to require the dedication with the site plan. I MOVE, THEREFORE, THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF A PLANNING COMMISSION ALTERNATIVE TO THE STAFF RECOMMENDATION FOR PLAN AMENDMENT 2015-IV-MV3, AS SHOWN ON PAGE 2 THROUGH 4 OF MY HANDOUT DATED SEPTEMBER 22, 2016. The alternative would modify the staff recommendation bullets about pedestrian and bicycle access and parking and add a new bullet about contributions to offset the impact of the proposed development.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt Plan Amendment PA 2015-IV-MV3, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Strandlie: Mr. Chairman, I was absent. I would like to abstain.

Chairman Murphy: Okay. Ms. Strandlie abstains.

//

(The motion carried by a vote of 8-0-1. Commissioner Strandlie abstained from the vote. Commissioners Hedetniemi, Lawrence, and Ulfelder were absent from the meeting.)

JLC

Planning Commission Recommended Clarification to the Staff Recommendations dated September 1, 2016

**PLANNING COMMISSION ALTERNATIVE
PROPOSED PLAN LANGUAGE
Plan Amendment 2015-IV-MV3
September 22, 2016**

Recommended modifications to the Staff Recommendation are shown as double underlined for text to be modified or added, and ~~double strikethrough~~ for text to be deleted.

RECOMMENDATION

MODIFY: Fairfax County Comprehensive Plan, 2013 Edition, Area IV, Mount Vernon Planning District, amended through 10-20-2015, Richmond Highway Corridor Area, Penn Daw Community Business Center, Land Unit G, pages 42-43:

“The area along the east side of Richmond Highway south of Shields Avenue to Fairview Drive is planned for community-serving retail use up to .50 FAR. Tax Map Parcel 83-3((1))24 is owned by the county. Steep slopes, streams and floodplains with their existing vegetation located on the property should be preserved as a public park. Where past practices have degraded these slopes and streams, bioengineering approaches should be followed to restore them to more natural conditions and functions.

~~As an option, Tax Map parcels 83-3((1))20 may be appropriate for redevelopment. The mix of use and intensity should be examined through a concurrent Comprehensive Plan amendment and zoning application. This approach is consistent with county policy that permits concurrent processing of Comprehensive Plan amendment and zoning applications in order to facilitate the review of development proposals in Commercial Revitalization Areas. Redevelopment under this option may consider consolidation with Tax Map parcels 83-3((1))19 and 18 in order to accommodate compatible land use transitions, building height tapering, and potential buffering to the adjacent, low density neighborhood.~~

As an option, midrise multifamily residential use with a maximum of 375 dwelling units with ground floor retail use or amenity space may be appropriate subject to the following conditions:

- Full consolidation of Tax Map Parcels 83-3 ((1))18,19 and 20 should be achieved.
- High-quality architecture, landscape design, and pedestrian amenities should be provided. Façade treatments, including windows, ground-floor unit entrances, building articulation, and distinctive architecture should be used on all four sides of the building to the extent possible,
- Building height and massing should taper, or other architectural elements

such as balconies, or pitched rooflines should be employed to reduce the effect of the building height and bulk on the adjacent residential neighborhoods to the south and east.

- Adequate buffering and screening landscaped with year-round vegetation should be provided to minimize the visual impact of any development on the adjacent neighborhood.
- Well designed, publicly accessible urban plaza(s) or park(s) should be included to create a sense of place and provide recreational opportunities for residents and visitors, consistent with the Urban Parks Framework.
- Development should dedicate 89 feet from the centerline of Richmond Highway for planned transportation improvements.
- The walkability and multi-modal connectivity of the redevelopment should be enhanced through the addition of sidewalks, streetscaping, and bicycle facilities. Safe pedestrian and bicycle connections that provide ~~direct~~ access to nearby transit, amenities and retail uses should be provided. ~~Safe pedestrian crossing of Fairview Drive is essential with any redevelopment.~~
- A public street should be accommodated, including the dedication of right-of way, to connect Fairview Drive to Tax Map Parcel 83-3((40))1A. The street is intended to link to a network of neighborhood streets that will be created with the future redevelopment of parcels 83-3 ((40)) 1A and 83-3 ((40)) 2A.
- Parking facilities should be designed to minimize adverse visual impacts to the streetscape and neighboring properties. Parking should be consolidated into an aesthetically appealing and functionally efficient structure that is integrated into the development using such features as ~~aesthetically appealing~~ architectural detailing, and dwelling units that wrap the structure to improve the exterior of the building and screen the interior from view, ~~screening, lighting and/or landscaping~~. Access to the parking structure should be from the new road that connects Fairview Drive to Tax Map Parcel 83-3((40))1A.
- Appropriate contributions should be provided for improvements and amenities that would offset the impacts generated by the development.

MODIFY FIGURES:

Expand the Penn Daw CBC boundary by adding Tax Map Parcels 83-3((1))18 and 19 to Land Unit G, for each of the following figures:

Fairfax County Comprehensive Plan, 2013 Edition, Area IV, Mount Vernon Planning District, as amended through 10-20-2015, Richmond Highway Corridor,

- Figure 8, “Boundaries for North Gateway and Penn Daw Community Business Centers (CBCs) and Adjacent Route 1 Suburban Neighborhoods,” page 32;
- Figure 9, “Boundaries for Beacon/Groveton Community Business Center (CBC) and Adjacent Route 1 Suburban Neighborhoods,” page 49;
- Figure 13, “Transportation Recommendations North Gateway and Penn Daw CBCs and Adjacent Richmond Highway Suburban Neighborhoods”, page 79; and,
- Figure 14, “Transportation Recommendations Beacon/Groveton CBC and Adjacent Richmond Highway Suburban Neighborhoods,” page 80.
- Figure 40, “MV3- Belle Haven Community Planning Sector Land Use Recommendations General Locator Map,” page 143;

Add note, “Accommodate a public street connecting Fairview Drive to a future network of neighborhood streets. See Land Unit G recommendations for additional guidance,” and arrow to the following figures:

- Fairfax County Comprehensive Plan, 2013 Edition, Area IV, Mount Vernon Planning District, amended through 10-20-2015, Richmond Highway Corridor Area, Figure 13, “Transportation Recommendations North Gateway and Penn Daw CBCs and Adjacent Richmond Highway Suburban Neighborhoods”, page 79;
- Fairfax County Comprehensive Plan, 2013 Edition, Area IV, Mount Vernon Planning District, amended through 10-20-2015, MV3 Belle Haven Community Planning Sector, Figure 43, “Access Recommendations MV3 Belle Haven Community Planning Sector, page 146;

COMPREHENSIVE LAND USE PLAN MAP:

The Comprehensive Plan Map would be modified to expand the Penn Daw CBC boundary to add Tax Map Parcels 83-3((1))18 and 19 to Land Unit G.

TRANSPORTATION PLAN MAP

The Transportation Plan Map would not be modified.

Board Agenda Item
October 18, 2016

5:30 p.m.

Public Hearing on Proposed Plan Amendment 2016-CW-1CP, Countywide Policy Plan

ISSUE:

Plan Amendment (PA) 2016-CW-1CP proposes to amend the locational and character criteria for public school facilities in the Public Facilities section of the Policy Plan element of the County's Comprehensive Plan.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, September 29, 2016 the Planning Commission voted 10 – 0 (Commissioners Hedetniemi and Lawrence were absent from the meeting) to recommend to the Board of Supervisors the approval of the Planning Commission Schools Committee's recommendation for Plan Amendment 2016-CW-1CP found in the proposed text dated September 14, 2016.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation.

TIMING:

Planning Commission public hearing – July 28, 2016
Planning Commission decision – September 29, 2016
Board of Supervisors' public hearing – October 18, 2016

BACKGROUND:

On March 1, 2016, the Fairfax County Board of Supervisors authorized Plan Amendment (PA) 2016-CW-1CP to direct staff to update location and character criteria for public school facilities in the Public Facilities section of the Policy Plan element of the County's Comprehensive Plan. This Plan Amendment was authorized by the Board in response to Fairfax County's growth strategy, which encourages development in the County's activity centers. The probable lack of available sites in activity centers that can be developed at a low intensity for public schools requires the consideration of smaller sites developed at a higher intensity. Additionally, the lack of available sites for new schools and education facilities may require the co-location of these facilities, and the repurposing of buildings planned for other uses to schools and education facilities. The existing Policy Plan language does not provide the needed flexibility for schools and education facilities in activity centers and urbanized areas of the County,

Board Agenda Item
October 18, 2016

necessitating an update of the policy plan. Staff coordinated with the Planning Commission Schools Committee and the appointed School Boards members over seven (7) meetings to develop the proposed Plan Amendment language.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment I: Planning Commission Verbatim and Recommendation
Attachment II: Planning Commission Handout
Attachment III: Proposed Plan Text

Staff Report for PA 2016-CW-1CP, previously furnished and available online at:
http://www.fairfaxcounty.gov/dpz/comprehensiveplan/amendments/staff_report_2016-cw-1cp.pdf

STAFF:
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Marianne Gardner, Director, Planning Division, DPZ
Chris Caperton, Branch Chief, Planning Division, DPZ
David Stinson, Planner II, Planning Division, DPZ

PA 2016-CW-1CP – PUBLIC SCHOOLS POLICY PLAN AMENDMENT

Decision Only During Commission Matters
(Public Hearing held on July 28, 2016)

Commissioner Sargeant: Thank you, Mr. Chairman. Mr. Chairman, on March 1st, 2016, the Board of Supervisors authorized Policy Plan Amendment 2016-CW-1CP. The authorization directed staff, working with the Planning Commission's Schools Committee, Fairfax County Public Schools, and the Fairfax County School Board, to consider development of revised locational and character track criteria for public school facilities in the public facilities section of the Policy Plan element of the County's Comprehensive Plan. Through a series of seven public meetings, the Schools Committee, with input from staff, Fairfax County Public Schools, and the School Board, revised the Policy Plan text addressing the Board's authorization. This initiative is part of the County's effort to plan for future educational facilities. The policy language takes transit-oriented, higher-density development into consideration with the addition of vertical design guidelines for schools and other educational facilities. It provides for innovative and creative uses of space in new forms and structure. No, we are not abandoning the traditional school design that continue to serve as the hallmark and central core of so many of our communities. They will always have their place and value in our county. What we are doing, instead, is creating a new tool in the toolbox, an additional and contemporary design element for educational facilities that is in sync with the way many of our current and future citizens will go to school. One very positive outcome of this process is a very positive and collaborative working relationship between members of the School Board and Facilities Planning and the Planning Commission and County staff. This collaboration resulted in a positive update of the Schools Policy Plan and a foundation for teamwork as collectively – as we collectively tackle future issues in support of our school system. I'd like to thank several people for the effort and the tremendous achievement that we have. One is School Board Chairman, Sandy Evans, from the Mason District. And another friend, who is here tonight, is a Mount Vernon School District Board Member, Karen Corbett Sanders, who joins us for this final vote. She served as the School Board's liaison to the School Committee, along with Chairman Evans. They provided invaluable insight and guidance, not to mention the commitment of time to our committee meetings, as well as all the other meetings they attend. It was invaluable to have them here. The same can be said for Jeff Platenburg and Kevin Sneed, with School Systems Facilities Planning Department. They helped us better understand the guidelines for good schools and design and helped us understand the vision for designing future schools. My gratitude, as well, to Chris Caperton and David Stinson from County's planning staff for their guidance in keeping us focused on our mission for the Board of Supervisors. You not only found the right words and policy text, gentlemen, to describe a new vision for educational facilities. You kept us on the straight and narrow when it comes to our adherence to and support of the Comprehensive Plan and its policies. I'd like to ask a couple of questions, if I could, with that before I make my motion, Mr. Chairman. And I'd like to ask Mr. Stinson just a couple of questions, if I may. There was extensive discussion regarding before and after school child care facilities and programs. And, in addition to the fact that the policy document does not impinge – and should not – on the School Board's authority, the draft language regarding school-age child care does preclude or prohibit or discourage their placement. Is that correct?

David Stinson, Planning Division, Department of Planning and Zoning: Yes, that is correct.

Commissioner Sargeant: And we had a review through the County Attorney's Office to ensure that our language was not impinging in that fashion in any way. Correct?

Mr. Stinson: Yes. That was the determination of the County Attorney's Office.

Commissioner Sargeant: And also, there was a contractual relationship too between the School Board and the Board of Supervisors when it comes to after school child care. Correct?

Mr. Stinson: Correct. Yes.

Commissioner Sargeant: And that does not – what we are doing here does not impinge on that relationship, contractually or anything else. Correct?

Mr. Stinson: Correct.

Commissioner Sargeant: I think we've managed to strike a positive and appropriate balance, Mr. Chairman. And with that, I'd like to go ahead and make my motion. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE APPROVAL OF THE SCHOOLS COMMITTEE'S RECOMMENDATION FOR PLAN AMENDMENT 2016-CW-1CP FOUND IN THE PROPOSED PLAN TEXT DATED SEPTEMBER 14TH, 2016. Thank you, Mr. Chairman.

Commissioners Migliaccio and Strandlie: Second.

Chairman Murphy: Seconded by Mr. Migliaccio and...

Commissioner Sargeant: I think Ms. Strandlie is...

Chairman Murphy: Ms. Strandlie?

Commissioner Strandlie: And then I have a statement.

Chairman Murphy: Okay. Please. Is there a discussion of the motion?

Commissioner Sargeant: What? I think she was seconding and making a statement with her motion – with her second.

Commissioner Strandlie: Yes. I was seconding and then I was going to make a statement.

Chairman Murphy: Okay. Discussion? Go ahead.

Commissioner Strandlie: Thank you. Thank you, Commissioner Sargeant. This has been a very thorough review of the School's Policy Plan. We appreciate the direct involvement of the School Board members, Karen Corbett Sanders and School Board Chair, Sandy Evans. During the public hearing process, we heard from constituents. I think they were all from the Mason

District. The decision was deferred while the Schools Committee and the Commission considered resident comments. Many changes were incorporated in the document that we will vote on tonight. The committee spent a great deal of time crafting the wording of this revised policy. We worked with Ms. Corbett Sanders and Ms. Evans and the FCPS staff to provide design and program – programming flexibility for future school sites. And Ms. Corbett Sanders is here tonight and we thank you very much for – for taking time out tonight to be with us. The policy language related to Fairfax County’s Office of Children and Family Services, who allay child care – SACC Program – also provide some flexibility for excitant circumstances, such as providing SACC services at the two campus – Upper Bailey’s and Bailey’s Elementary, located in the Mason District. However, we note that the SACC language in the proposed Policy Plan does not suggest, nor endorse altering SACC’s in-school dedicated space requirements, as they exist today. And I want to thank everyone again, following Commissioner Sargeant’s comments, and I think we have struck a good balance.

Commissioner Sargeant: Thank you.

Chairman Murphy: Is there further discussion of the motion? All those in favor of the motion, as articulated by Mr. Sargeant, say aye.

Commissioner Sargeant: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

//

(The motion carried by a vote of 10-0. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

JLC

MOTION
September 29, 2016
Commissioner Timothy Sargeant, At-Large
Plan Amendment 2016-CW-1CP

Background:

On March 1, 2016 the Board of Supervisors authorized Policy Plan amendment 2016-CW-1CP. The authorization directed staff, working with the Planning Commission Schools Committee, Fairfax County Public Schools and the Fairfax County School Board, to consider development of revised locational and character criteria for public school facilities in the Public Facilities section of the Policy Plan element of the County's Comprehensive Plan. Through a series of seven public meetings, the Schools Committee, with input from staff, Fairfax County Public Schools and the Fairfax County School Board, revised the Policy Plan text addressing the Board's authorization.

Motion to approve:

Therefore Mr. Chairman, I move that the Planning Commission recommend to the Board of Supervisors the approval of the Schools Committee's recommendation for Plan Amendment 2016-CW-1CP, found in the Proposed Plan Text dated September 14, 2016.

Thank you, Mr. Chairman

End of Motion

Fairfax County Policy Plan, 2013 Edition, Public Facilities Element, as amended through 3-4-2014, pages 5 – 9:

“PUBLIC SCHOOLS

INTRODUCTION

Fairfax County Public Schools (FCPS) is the major provider of education in the county. ~~FCPS This system~~, which has been nationally recognized for excellence and is one of the largest school systems in the nation, has a wide range of educational facilities that accommodate instructional programs for county students from kindergarten through grade 12. In addition to accommodating educational programs, school facilities are used to meet the county’s recreational and cultural needs ~~of the county~~ through programming by the Department of ~~Recreation~~ Neighborhood and Community Services. Generally, separate facilities are provided to serve up to three levels of education:

- Elementary ~~_____~~ kindergarten to grade 5/6
- ~~Middle-Intermediate~~ ~~_____~~ grades 6/7 and 8
- ~~Secondary~~ ~~_____~~ grades 7 through 12
- High ~~_____~~ grades 9 through 12

Additionally, FCPS has an extensive adult education program, and many specialized educational programs. Special education programs serve mentally and physically handicapped students, ranging in age from 18 months ~~2~~ to 22 years. The Family and Early Childhood Education Program (FCEP), formerly known as Head Start, is a preschool program operated primarily in elementary schools for children ages 4 and 5.

The Constitution of Virginia delegates the supervision of public schools to the school board of each locality. Virginia school boards are not county agencies. The Virginia Supreme Court consistently has acknowledged that the power to select school sites and to determine the manner in which school properties shall be used is essential to the school board's supervisory role.

Pursuant to Virginia Code annotated Section 15.2-2232 when a proposed public school facility is not featured in the Comprehensive Plan, the School Board must submit the proposed facility to the Planning Commission for a determination of whether the general, or approximate location, character, and extent of the proposed facility is substantially in accord with the Comprehensive Plan. The text, objectives, and policies appearing in this portion of the Policy Plan are planning guidelines and are not intended to negate the School Board's constitutionally vested authority for school site selection, school design, or the most appropriate method to house and accommodate Fairfax County public school students. On the other hand, to the extent that the text, objectives, and policies of this section reflect land use rather than programmatic concerns, they will be implemented by the Planning Commission, as required by Virginia Code, Section 15.2-2232.

The fundamental element in capital facility planning for public schools is determining future memberships, a complex procedure which continues to be refined. The school system employs ~~a combination of two statistical multiple methodologies, a modified cohort survival model, and the cohort component model~~, for projecting student populations. ~~The cohort survival model is based on expected birth and migration rates and the cohort component model modifies survival ratio projections to account for special events that effect projections, such as students generated by new housing. The latter model employs housing student generation yields using a computer-assisted geographic planning model, which aggregates estimates to attendance area~~

~~level. These estimates are then incorporated into the cohort survival generated attendance area estimates. These models are only effective with current data. Therefore, thorough knowledge of housing starts and use of appropriate dwelling unit multipliers are essential. In addition to obtaining current housing start information, FCPS staff conduct both windshield surveys, to determine construction progress, and mail out surveys, to determine current household composition. Enrollment is frequently projected to within a 1% level of accuracy.~~

Planning for schools is particularly difficult in areas with transient populations, such as Northern Virginia. This problem is compounded in Fairfax County by rapid housing development, and a multitude of variables which alter enrollment levels, such as transfers to and from private schools, in and out migration rates, and changing family compositions in existing housing stock.

FCPS strives for precise facility planning, in order to mitigate costs associated with over-estimates and yet ensure adequate physical space for students and programs. The need for new facilities and additions is determined by comparing available capacity in an area and the projected students for that area. Capacity is an estimate of the number of student spaces available within an educational facility which takes into account the following factors: educational specifications for elementary, intermediate middle and high schools; or elementary and secondary schools; program requirements; and appropriate student-teacher ratios. For example, program requirements can alter space allocations within a building if they utilize additional space, such as the addition of a room for computer training. Changes in student-teacher ratios can alter the number of classrooms required for a given number of students by modifying how they are organized into classes and scheduled into rooms.

Student membership forecasts, coupled with capacity estimates and facility standards, provide the framework for capital facility planning. Locational criteria assists in site planning, identification and selection.

The next 20 years will prove a significant challenge in maintaining and improving the county's high standards for educational facilities. In addition to keeping pace with technological advances and demographic fluctuations, FCPS must acquire schools sites or buildings in an ever-tightening real estate market. Land and building acquisition ~~and~~, construction of schools or lease of buildings will compete with other community facilities for available land and funding resources. While providing for new facilities is expected to be a major focus for FCPS, it is becoming increasingly apparent that the rehabilitation of existing facilities will compete for limited facility funding. Therefore, every effort should be made to ensure that projects cost-effectively meet FCPS requirements.

~~The Constitution of Virginia delegates the supervision of public schools to the school board of each locality. Virginia school boards are not county agencies. The Virginia Supreme Court consistently has acknowledged that the power to select school sites and to determine the manner in which school properties shall be used is essential to the school board's supervisory role.~~

~~Pursuant to Virginia Code annotated Section 15.2-2232 when a proposed public school facility is not featured in the Comprehensive Plan, the School Board must submit the proposed facility to the Planning Commission for a determination of whether the general, or approximate location, character, and extent of the proposed facility is substantially in accord with the Comprehensive Plan. The text, objectives, and policies appearing in this portion of the Policy Plan are planning guidelines and are not intended to negate the School Board's constitutionally vested authority for school site selection, school design, or the most appropriate method to house and accommodate Fairfax County public school students. On the other hand, to the extent that the text, objectives, and policies of this section reflect land use rather than programmatic concerns, they will be implemented by the Planning Commission, as required by Virginia Code, Section~~

~~15.2-2232.~~
Location

Objective 6: Acquire sites for future building schools or educational facilities through negotiation, dedication, or condemnation, which best provide efficiently located schools. This may include the siting of schools or facilities in high density areas or on parcels of limited size.

- Policy a. Place schools on parcels meeting the optimum number of general locational criteria. Sites should be evaluated by the following factors:
- Safe and convenient accessibility to pedestrian and road networks, and transit where available.
 - Floor Area Ratio (F.A.R.) ~~Acreage~~ to accommodate expansion, when the school is originally sized below the maximum efficiency standard for that type of school.
 - Compatibility with adjoining planned and existing development and with the Comprehensive Plan.
 - Aesthetically pleasing physical qualities with appropriate engineering features (e.g. soils, topography).
 - Proximity to other public facilities, such as ~~P~~police and ~~F~~ire and ~~R~~escue services, public parks and libraries.
 - ~~Proximity of schools to commercial areas should be avoided, if possible.~~
- Policy b. Locate school sites, when situated in areas conducive to pedestrian traffic, to take advantage of maximum walking distances of one mile for elementary schools and one and a half miles for middle schools, intermediate and high schools, and secondary schools.
- Policy c. Locate middle schools, intermediate and high schools, and secondary schools, and when possible, elementary schools, where they can be served by public water and sewer. When elementary schools must be located in non-sewered areas in order to serve their target student population, well and septic can be utilized if no other alternative is available.
- Policy d. ~~Purchase~~ Acquire school sites, when land dedications cannot be obtained, as far in advance of construction as possible, to ensure availability of both the preferred location and the necessary site features. ~~Implement a land Plan for acquisitions plan~~ through the Capital Improvement Program.
- Policy e. Encourage site dedications which provide sufficient F.A.R. ~~usable acreage~~ to meet locational criteria.
- Policy f. Coordinate the acquisition and design of the site's active recreation areas with the Fairfax County Park Authority and other agencies, as required to meet recreational standards and where feasible. This will ensure maximum opportunities for co-location and efficient use of recreational and other facilities.
- Policy g. ~~Encourage a~~ As part of the development and redevelopment process, ~~commitments encourage commitments for school renewals and additions renovations and additional capacity where permissible.~~

Objective 7: Distribute administration and maintenance facilities to conveniently serve the areas they support where feasible.

- Policy a. Locate Area Administration buildings in the school areas they are intended to serve.
- Policy b. Locate maintenance and operation facilities to afford greater convenience, efficiency and reduction of travel time.

Character and Extent

Objective 8: Locate schools on sites which meet or exceed minimum state size standards guidelines where feasible.

- Policy a. Ensure that minimum site size conforms to the Fairfax County Zoning Ordinance F.A.R. requirements. This may ~~require~~ result in the acquisition of sites acreage that do not conform in addition to the state suggested minimum requirements guidelines.

Objective 9: Design schools and educational facilities to allow for maximum optimal site utilization while providing optimum service to, and compatibility with, the local community.

- Policy a. Design schools to maximize a site's utility, while providing for safety and aesthetics. Provide for possible future expansion and allow for efficient flow of traffic. Provide adequate stacking space and circulation for school buses, student drop off, and offstreet parking, as required. The impact of school traffic on local road networks should, to the extent possible, be minimized.
- Policy b. Design and construct schools with appreciation for, and attention to, environmentally sensitive lands.
- Policy c. Locate ~~elementary, intermediate and high~~ schools in relation to residential or mixed-use areas, the road network, ~~and~~ traffic patterns and transit where available to optimize the resulting safety and convenience for students, residents, and commuters. When possible, elementary schools should be located in, or on the periphery of, residential or mixed-use areas to ensure proximity and convenience for students and the local community.
- Policy d. Provide for compatibility between schools and adjacent properties with appropriate screening and fencing, in accordance with the Fairfax County Zoning Ordinance. When designing and constructing schools, preserve as much mature natural vegetation as possible.
- Policy e. Design buildings for educational purposes so that intensity and character are compatible with surrounding planned and existing development.
- Policy f. Consider Area Plan design guidelines, as appropriate, for schools and buildings for educational purposes.
- Policy g. Consider co-location of different levels of education and other types of programs, with the option of shared facilities such as cafeteria, gymnasium,

auditorium, library, and administrative offices.

Policy h. Consider co-location of schools with other public uses such as a library or a recreational center.

Objective 10: Consider adaptive reuse of buildings for public schools and educational purposes.

Policy a. Consider properties such as office, commercial, or other buildings for conversion to education facilities.

Policy b. Consider commercial sites to offer programs such as Transitional High Schools, Family and Early Childhood Education Program (FECEP)/Head Start and distance learning. These sites could also provide services to the community.

Policy c. Consider alternative spaces for outdoor recreation, such as converted rooftops and underutilized surface parking lots. Coordinate with the Fairfax County Park Authority or other organizations for efficient use of recreational facilities for both school and community use.

Other

Objective 1110: Encourage ~~full utilization~~ optimization of existing schools and other facilities, whenever possible and reasonable, to support educational and community objectives.

Policy a. Build additions, when appropriate, to minimize the need for new facilities. Analyze carefully the costs and benefits associated with construction of an addition as compared to a new facility.

Policy b. Consider the expansion of existing school facilities identified on the Comprehensive Plan map, as a feature shown of the Comprehensive Plan provided the proposed expansion has received prior approval by a public bond referendum, is included in the county's currently adopted Capital Improvement Program, and does not significantly impact ~~on~~ the character of the existing facility and its compatibility with the surrounding area.

Policy c. Provide temporary facilities as required to respond to short term student population accommodation needs.

Policy d. ~~Promote~~ Encourage equity parity between older and newer schools and facilities through ~~the Renewal Program~~ renovation. Apply the same educational specifications used as a guide in the construction of new schools facilities for planning the renewal renovation of old ones existing facilities. Consider expected future utilization rates when proposing ~~renewal~~ renovation projects.

Policy e. Continue the practice of serving local communities, for ~~scoutsing~~ senior citizen programs, and other neighborhood based activities, through the use of school facilities. Provide access to school grounds for community use of recreational facilities. ~~Cooperate in the use of schools space for the School Age Children~~

~~Child Care (SACC) program.~~

- Policy f. Continue the practice of working in collaboration with the Fairfax County Office for Children and other organizations for the provision of space for before and after-school child care services.
- Policy ~~f~~ g. Continue the practice of allowing the Park Authority and other organizations to utilize sites before school construction begins.
- Policy ~~g~~ h. Provide space for other public service needs, when possible and reasonable, in underutilized schools.
- Policy i. Consider co-location of multiple education facilities on school sites.”

Board Agenda Item
October 18, 2016

5:30 p.m.

Public Hearing to Consider Parking Restrictions on Fair Ridge Drive (Sully District)

ISSUE:

Public hearing to consider a proposed amendment to Appendix R of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to establish parking restrictions on Fair Ridge Drive in the Sully District.

RECOMMENDATION:

The County Executive recommends that the Board adopt an amendment to Appendix R, of the Fairfax County Code, to prohibit commercial vehicles, recreational vehicles and all trailers as defined in Chapter 82 of the Fairfax County Code from parking on Fair Ridge Drive, north of Lee Jackson Highway from 6:00 p.m. to 9:00 a.m., seven days per week.

TIMING:

The public hearing was authorized on September 20, 2016, for October 18, 2016, at 5:30 p.m.

BACKGROUND:

Fairfax County Code Section 82-5-37(5) authorizes the Board of Supervisors to designate restricted parking in non-residential areas where long term parking of vehicles diminishes the capacity of on-street parking for other uses.

Representatives of various property owners of land along Fair Ridge Drive contacted the Sully District office requesting a parking restriction to prohibit commercial vehicles, recreational vehicles and all trailers from parking on Fair Ridge Drive from 6:00 p.m. to 9:00 a.m., seven days a week. In addition, representatives have contacted this office indicating that the long term parking of these vehicles is impacting tenant renewals.

This area has been reviewed on several occasions over a period of time in excess of 30 days and verified that long term parking is occurring. Staff is recommending a parking restriction for all commercial vehicles, recreational vehicles, and all trailers along Fair Ridge Drive, north of Lee Jackson Highway, from the eastern to the western intersections of Fair Ridge Drive and Lee Jackson Highway, from 6:00 p.m. to 9:00 a.m., seven days per week.

Board Agenda Item
October 18, 2016

FISCAL IMPACT:

The cost of sign installation is estimated at \$800 to be paid from Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:

Attachment I: Proposed amendment to Fairfax County Code, Appendix R (General Parking Restrictions)

Attachment II: Area Map of Proposed Parking Restriction

STAFF:

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)

Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

Maria Turner, Sr. Transportation Planner, FCDOT

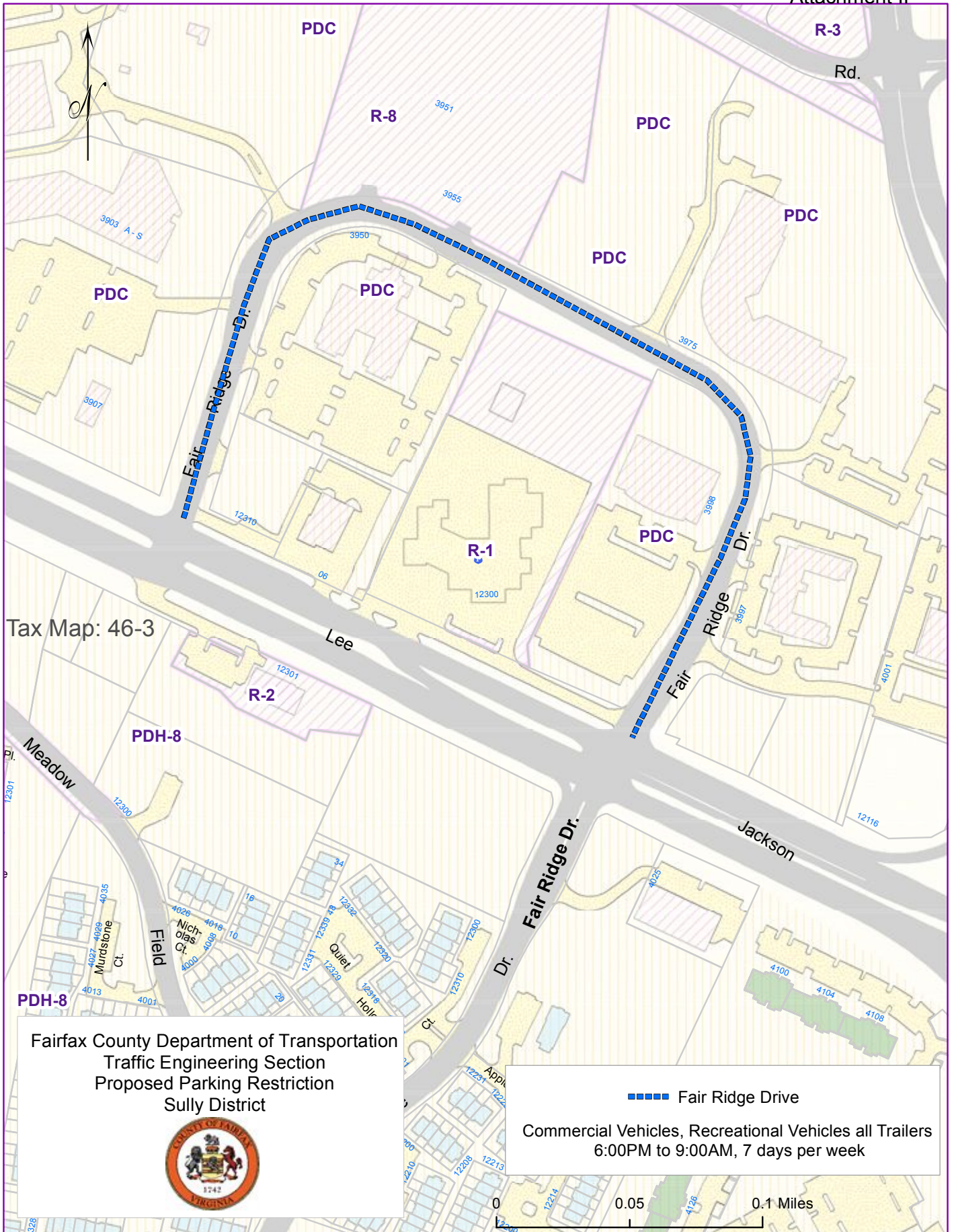
PROPOSED CODE AMENDMENT

THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA
APPENDIX R

Amend *The Code of the County of Fairfax, Virginia*, by adding the following to Appendix R, in accordance with Section 82-5-37:

Fair Ridge Drive (Route 7960).

Commercial vehicles, recreational vehicles, and trailers as defined in Chapter 82 of the Fairfax County Code shall be restricted from parking on Fair Ridge Drive north of Lee Jackson Highway, from the eastern to the western intersections of Fair Ridge Drive and Lee Jackson Highway, from 6:00 p.m. to 9:00 a.m., seven days per week.



Board Agenda Item
October 18, 2016

5:30 p.m.

Public Hearing on PCA-B-846-03 (RP 11720, LLC) to Amend the Proffers for RZ-B-846 Previously Approved for Office use to Permit Residential Development at a Density of 15.65 Dwelling Units Per Acre with Associated Modifications to Proffers and Site Design, Located on Approximately 3.45 Acres of Land Zoned PRC (Hunter Mill District) (Concurrent with PRC-B-846-04 and DPA-HM-117-02)

and

Public Hearing on DPA-HM-117-02 (RP 11720, LLC) to Permit the Second Amendment of the Development Plan for RZ-B-846 to Permit Medium Density Residential, Located on Approximately 3.45 Acres of Land Zoned PRC (Hunter Mill District) (Concurrent with PCA-B-846-03 and PRC-B-846-04)

and

Public Hearing on PRC-B-846-04 (RP 11720, LLC) to Approve a PRC Plan Associated with RZ-B-846 to Permit Residential Development at a Density of 15.65 Dwelling Units Per Acre, Located on Approximately 3.45 Acres of Land Zoned PRC (Hunter Mill District) (Concurrent with PCA-B-846-03 and DPA-HM-117-02)

This property is located on the NorthWest quadrant of the intersection of Sunrise Valley Drive, and Roland Clarke Place. Tax Map 17-4((14)) (1A) 1.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, September 14, 2016, the Planning Commission voted 7-0-2 (Commissioners Hart and Hurley abstained from the vote and Commissioners Hedetniemi, Lawrence, and Strandlie were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of DPA HM-117-02;
- Approval of PCA B-846-03, subject to the execution of proffers consistent with those dated August 26, 2016;
- Approval of PRC B-846-04, subject to the Development Conditions dated September 6, 2016;

Board Agenda Item
October 18, 2016

- Approval of a waiver of Paragraph 2 of Section 6-107 of the Zoning Ordinance, which requires a 200 square foot minimum privacy yard area for single family attached dwellings; and
- Approval of a waiver of the tree preservation requirement from Section 12-0508.3 of the Public Facilities Manual.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Laura Arseneau, Planner, DPZ

Board Agenda Item
October 18, 2016

5:30 p.m.

Public Comment from Fairfax County Citizens and Businesses on Issues of Concern